



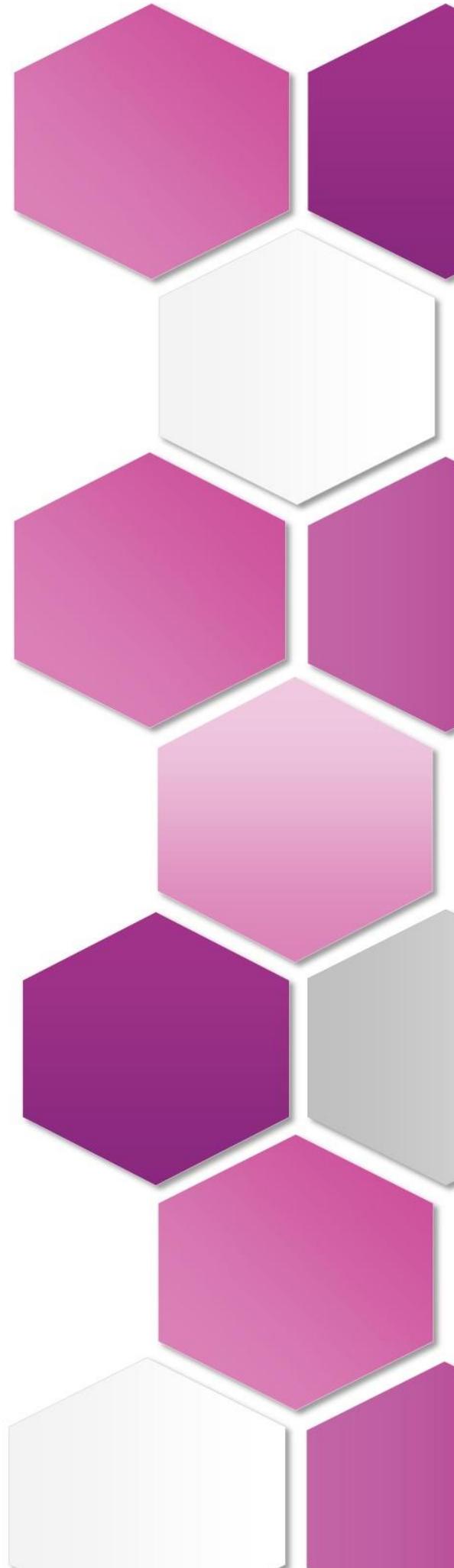
**Public
Prosecution
Service**

Independent
Fair
Effective

Policy for Prosecuting Cases of Stalking

Draft for Consultation

June 2024



Further Information

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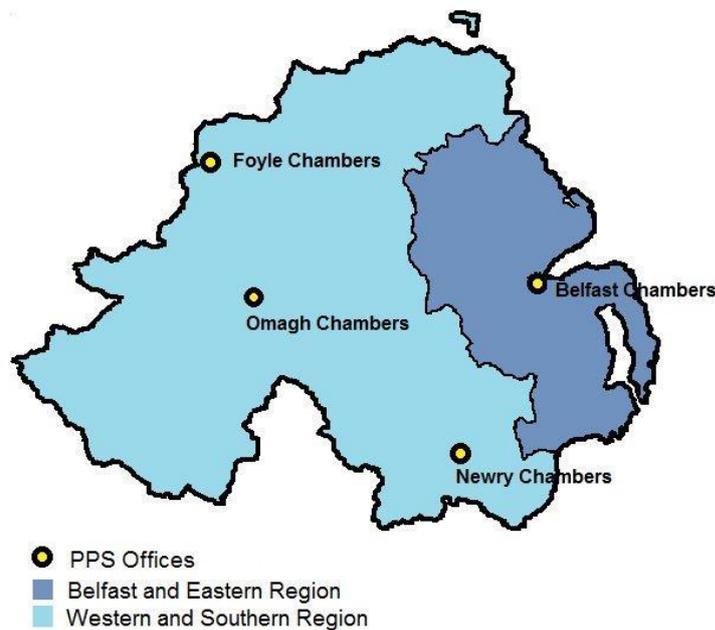
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About the Public Prosecution Service

The PPS, which is headed by the Director of Public Prosecutions, is the principal prosecuting authority in Northern Ireland. In addition to taking decisions as to prosecution in cases investigated by the police, it also considers cases investigated by other statutory authorities, such as HM Revenue and Customs.

While the PPS works closely with the police and other agencies, it is wholly independent; its decisions are impartial, based on an independent and professional assessment of the available evidence and the public interest. The PPS vision is to be recognised as providing a first-class prosecution service for the people of Northern Ireland.



The PPS is a regionally based organisation (see map above). There are two regions, both headed by an Assistant Director. The Assistant Director has overall responsibility for decisions as to prosecution and for the conduct of all prosecutions in that region, apart from those cases which are considered by prosecutors at Headquarters in Belfast.

There are also a number of other sections within the Service, each headed by an Assistant Director, which deal with specialised areas of work. These include High Court and International, Fraud and Departmental, Central Casework and the Serious Crime Unit.

Corporate Services is responsible for the organisation's support services, including the Policy and Information Unit, Finance, ICT, Communications, Strategic Improvement, Modernisation and the Victim and Witness Care Unit.

1. Introduction

1.1 Purpose of this policy

- 1.1.1 The purpose of this policy is to explain the approach of the Public Prosecution Service (PPS) in taking prosecutorial decisions in respect of stalking, as well as the assistance available to support victims and witnesses in these cases.
- 1.1.2 The Protection from Stalking Act (Northern Ireland) 2022 became law on 27 April 2022. This Act creates a specific offence of stalking in Northern Ireland. This offence recognises the persistent, fixated and obsessive nature of this crime and the devastating impact it can have on the victim.
- 1.1.3 Stalking involves behaviours towards a person that makes them feel unsafe. The behaviour may be direct or indirect and a stalker may know their victim intimately, as in a partner, former partner, family member or barely at all.
- 1.1.4 Research suggests that, on average, victims of stalking may suffer up to one hundred incidents before reporting to police.¹ This may be due to fear of not being believed or taken seriously, threats or fear of repercussions from the stalker or simply not wanting to make matters worse.
- 1.1.5 Stalking is increasingly being recognised across the UK as a form of domestic abuse, with the majority of stalking cases being carried out by current or ex-partners. One of the most common forms of stalking occurs where the stalker was engaged in a previous relationship with the victim. Following the breakdown of the relationship the stalker may go on to bombard the victim with unwanted and often threatening phone contact or physically stalk the victim at home or at work. Further information on domestic abuse can be found in our [Policy for Prosecuting Cases of Domestic Abuse](#).
- 1.1.6 Tackling stalking is a priority for the PPS. Stalking is one of the most frequently experienced forms of abuse. It is a dangerous crime that can result in fear, trauma and a reduction in the victim's quality of life. In some cases stalking can escalate to rape and murder. Stalking is a serious crime and those who are victims of it should seek help.
- 1.1.7 The PPS is committed to dealing with offences of stalking in a fair, effective, sensitive and compassionate manner in order to minimise any adverse

¹ Lorraine Sheridan, *Paper on Key Findings from the Stalking Survey (2005)*.

impact that the process may have on victims and witnesses. The safety of victims is of paramount concern.

- 1.1.8 While the PPS must consider each case individually, there are general principles that apply in every case. Prosecutors must be fair, independent and impartial. They must not allow any personal views about gender, age, disability, religion or belief, ethnic or national origin, political views or sexual orientation of the suspect, victim or a witness to improperly influence their decision. They must not be influenced by improper or undue pressure from any source. Prosecutors must always act in the interests of justice and not solely for the purpose of obtaining a conviction.
- 1.1.9 The PPS, in exercising its functions, will ensure that it complies with the binding obligations of international law ratified by the UK. It will comply with the Convention rights incorporated into domestic law by the Human Rights Act 1998, the UN Declaration of Basic Principles of Justice for Victims of Crime (and Abuse of Power), the UN Convention on Elimination and Discrimination Against Women, the UN Convention on the Rights of the Child, the UN Convention on the Rights of People with Disabilities, the UK ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) and other relevant EU Directives, Conventions and relevant case law. These commitments apply not just to the rights of victims and witnesses, but to accused persons also.
- 1.1.10 The PPS fully supports the ongoing work of the Northern Ireland Executive Office on the 'Equally Safe' strategy. We are also fully committed to supporting the Department of Justice and the Department of Health in delivering the 'Stopping Domestic and Sexual Violence and Abuse Strategy' in Northern Ireland.
- 1.1.11 Prosecutors will follow legal guidance provided by PPS and the Attorney General for Northern Ireland, including Human Rights Guidance issued under Section 8 of the Justice (Northern Ireland) Act 2004. Prosecutors will also have regard to the supporting [statutory guidance](#) on stalking published by the Department of Justice.
- 1.1.12 One of the most effective ways of combating stalking is through the pursuit and disruption of perpetrators, which includes prosecution. The PPS is committed to reducing harm through the prosecution of perpetrators of stalking where the Test for Prosecution is met (see Chapter 3). Prosecutors taking decisions in cases of stalking will have completed training on stalking and PPS is committed to ensuring that this training is delivered to prosecutors on an ongoing basis.

- 1.1.13 The PPS will review this policy regularly so that it reflects current law and practice. We welcome any comments and observations that help us to do this.

1.2 What is stalking?

- 1.2.1 There is no specific legal definition of stalking in Northern Ireland. However, the Suzi Lamplugh Trust defines stalking as a:

“pattern of fixated and obsessive behaviour which is repeated, persistent, intrusive and causes fear of violence or alarm or distress in the victim.”

- 1.2.2 Stalking can take many forms and may involve a combination of different types of behaviours. Some of the most common types of stalking behaviours include stalkers turning up at the victim’s home or work and watching, spying on or following a victim. More examples of stalking behaviour are included at **Annex A**.
- 1.2.3 The use of technology to perpetrate stalking has become increasingly common. Stalking can be digitally enabled where perpetrators use technology to spy on the victim or to track their movements. Stalking can also involve online behaviours known as ‘cyberstalking’. Further information on cyberstalking is included below.
- 1.2.4 Stalking can involve a combination of both online and offline behaviours. In many cases the victim may not be aware of the full extent of the stalking behaviour and this might only come to light through a police investigation.
- 1.2.5 Often victims may not refer to their experiences as ‘stalking’ and may report their concerns without mentioning that they feel they are being stalked. It may often be down to investigators and prosecutors to identify that the behaviours fit the definition of stalking.
- 1.2.6 It is important to recognise that stalking behaviours can often appear ‘harmless’ or unremarkable. They may seem lawful, particularly if considered in isolation rather than as part of a pattern of behaviour. The persistence and repetition of these behaviours can however give them a more sinister meaning and cause fear and distress for those affected. Stalking is a serious crime and those who are victims of it should seek help.

- 1.2.7 The key to identifying behaviours as stalking are that they are **fixated, obsessive, unwanted** by the victim and **repetitive (F.O.U.R)**.²
- 1.2.8 There is no such thing as a 'typical' stalking victim. This crime disproportionately affects women and girls, however it is important to recognise that men and boys may also be victims. Victims come from a wide range of backgrounds and stalking can happen to anyone regardless of race, culture, gender, identity, age or sexual orientation.
- 1.2.9 The impact of stalking will vary from victim to victim according to the victim's characteristics, past experience, current circumstances and what they know about the stalker. Levels of fear may be higher with female victims than male victims. Further information on the impact of stalking is included in **Annex B**.
- 1.2.10 There is no such thing as a 'typical' stalking perpetrator. There are many reasons why an individual may stalk another person. Further information on the dynamics of stalking is included in **Annex C**.

Cyberstalking

- 1.2.11 Stalking can take place on the internet and through the misuse of email. This is known as online stalking or 'cyberstalking'. Young people are particularly vulnerable to cyberstalking as they tend to be more active on social media.
- 1.2.12 Cyberstalking can include the use of social networking sites, chat rooms and other forums facilitated by technology. A stalker may use emails, social media and messaging apps to send messages, images or videos to harass, intimidate, threaten or scare the victim.
- 1.2.13 Cyberstalking can include posting defamatory or humiliating online content, spreading false rumours or using online tracking tools to monitor what a victim does. In some cases, stalkers can hack the victim's devices to gain access to accounts or personal information.
- 1.2.14 Some examples of cyberstalking include:
- Sending unwanted messages or emails;
 - Setting up multiple social media accounts to attempt to contact someone directly and / or those close to them;
 - Setting up fake accounts / dating profiles to contact someone;

² College of Policing (2019).

- Hacking into emails / accounts to access information about the victim;
- Installing spyware on devices to monitor the victim's activity;
- Posting private contact information about the victim online, such as their phone number and address (this is known as 'doxing');
- Posting private sexual images of the victim online.

1.2.15 Further information can be found in our [Guidelines for Prosecuting Offences Involving Electronic Communications](#).

1.3 Our commitment to victims and witnesses

1.3.1 The PPS recognises that the provision of services and support for victims and witnesses, and ensuring their needs are met, is essential to the overall effectiveness of the criminal justice system. Being the subject of, or witnessing a crime, is often a traumatic experience. It is vital, therefore, that victims and witnesses are given the support, information and services they need to minimise the disruption and upset caused to them, while enabling them to give the best possible evidence.

1.3.2 The rights of victims and witnesses are set out in detail in two separate documents, the Victim Charter and the Witness Charter. The purpose of the Charters is to ensure that victims and witnesses receive appropriate information, support and protection and are able to participate effectively in criminal proceedings. The Charters cover the services to be provided by a range of service providers across the criminal justice system in Northern Ireland, including the PPS and police. This policy reflects all of the PPS's commitments in respect of the Charters.³

1.3.3 The PPS [Victim and Witness Policy](#) explains in full the range and standards of service that victims and witnesses will receive. Further useful information, including an animation explaining 'A Victim's Journey', can be accessed [here](#).

1.3.4 If a victim is not satisfied with the service provided by the PPS, they are entitled to make a complaint. The PPS is committed to dealing with all complaints fairly and impartially, in a timely and consistent manner. Details of how to make a complaint are set out in the PPS Victim and Witness Policy.

1.3.5 It is recognised that victims experience many hurdles which make them reluctant to tell police or authorities what has happened to them. They may

³ The Victim and Witness Charters are available on the PPS website at www.ppsni.gov.uk.

be apprehensive or frightened about coming to court to give their evidence or find it difficult to understand the legal process. Some victims may have had previous poor experiences with the criminal justice system that discourage them from coming forward and reporting further abuse. Many victims are concerned about the consequences of giving evidence and may be reluctant to support criminal proceedings. They may, for example, fear risk of harm to themselves or their family members.

- 1.3.6 The PPS recognises the need for a multi-agency response to the challenges of dealing with stalking. The PPS works collaboratively with the police and other agencies in the criminal justice system and the voluntary sector in identifying ways to enhance the prevention, investigation and prosecution of such cases, as well as improving victim and witness care and protection.
- 1.3.7 The PPS will consider the range of legal measures available to support and protect victims and will make appropriate applications to the court to enable victims to give their best evidence. Further information on the measures and support available for victims of stalking is provided at Chapter 5.

1.4 The Victim and Witness Care Unit

- 1.4.1 The Victim and Witness Care Unit (VWCU) was developed by the PPS in partnership with police and other agencies. The VWCU is a dedicated Unit, made up of specially trained staff from the PPS and the Police Service of Northern Ireland (PSNI). The Unit's staff are based in the PPS's Belfast and Foyle Offices.
- 1.4.2 The purpose of the VWCU is to improve the experience of victims and witnesses and it is central to the provision of services. It allows for a single point of contact (via a VWCU Case Officer) within the criminal justice system. Its primary role is to keep victims and witnesses informed of the progress of their case throughout the criminal justice process from when an investigation or charge file is submitted to PPS, through the decision stage and up to the outcome of any court proceedings.
- 1.4.3 The VWCU will contact a victim once their case is received by PPS and will keep them informed at key stages as the case progresses. These will include:
- where a defendant is granted bail or their bail conditions are substantially changed;
 - when a prosecutor takes a decision in their case;
 - notifying or updating a victim about key court hearings;

- notifying the victim of the result of the case and any sentence imposed on the defendant;
 - notifying the victim if there is an appeal and the outcome of the appeal;
 - providing a victim with information about making a Victim Personal Statement.
- 1.4.4 The VWCU's Case Officers also conduct individual needs assessments which are aimed at trying to identify and address any needs that the victim or witness may have, and to assist them in giving their best evidence. An initial assessment is conducted in respect of the victim when a decision is taken to prosecute by the PPS. A further assessment is carried out where victims or witnesses have to attend court to give evidence. Additional assessments may be carried out as circumstances require.
- 1.4.5 The VWCU can also refer victims to specialist organisations for additional support. Referral can be made via Victim Support NI or NSPCC to ASSIST NI or to Sexual Offences Legal Advisors (SOLAs) as appropriate.
- 1.4.6 Further information on the VWCU and contact details can be accessed [here](#).

1.5 Trauma Informed Practice

- 1.5.1 'Trauma Informed Practice' (TIP) is about understanding how experiences of adversity and / or exposure to trauma affect the responses of victims of crime. People who have had traumatic experiences may find it difficult to feel safe within services and to develop trusting relationships with service providers. Consequently, services need to be structured and delivered in ways that promote safety and trust and reduce the risk of re-traumatisation. TIP applies across all parts of the public sector, and is an important consideration for agencies working in criminal justice.
- 1.5.2 The available evidence shows that the implementation of TIP has led to improved outcomes for victims who have experienced trauma in their lives, often as a direct result of the offences committed against them. The PPS is committed to implementing policy and practice developments which are informed by TIP, as well as providing appropriate training to staff, which will help in creating a more trauma informed justice system.

2. The Protection from Stalking Act 2022

2.1 Overview of the Act

- 2.1.1 [The Protection from Stalking Act \(Northern Ireland\) 2022](#) (referred to as ‘the Act’) became law on 27 April 2022. This Act brings stalking laws in Northern Ireland into line with other UK jurisdictions. A copy of the statutory guidance on stalking that has been issued by the Department of Justice can be accessed [here](#).
- 2.1.2 The Act creates a statutory offence of stalking in Northern Ireland. It also creates an offence of ‘threatening or abusive behaviour’. These offences recognise the fear, alarm and distress that may be caused to victims who experience these types of behaviour.
- 2.1.3 The Act provides for a number of amendments to criminal procedure to give victims of stalking additional legal safeguards in the criminal courts.
- 2.1.4 The Act introduces Stalking Protection Orders (SPOs). These civil orders came into force on 19 October 2023 and are aimed at protecting victims of stalking.
- 2.1.5 Further information on the main provisions of the Act, and how prosecutors will use these offences, is set out below.

2.2 The offence of stalking

- 2.2.1 Section 1 of the Act creates the offence of stalking. This offence came into force on 27 April 2022. It does not apply to any behaviour committed before this date.
- 2.2.2 Section 1 of the Act provides that a person (“A”) commits an offence of stalking where:
- A engages in a course of conduct; **and**
 - A’s course of conduct causes another person (“B”) to suffer fear, alarm or substantial distress; **or**
 - is such that a reasonable person, or a reasonable person who has any particular knowledge of B that A has, would consider to be likely to cause B to suffer fear, alarm or substantial distress; **and**
 - A engages in the course of conduct with the intention of causing B to suffer fear, alarm or substantial distress; **and / or**

- A knows, or ought in all the circumstances to have known, that engaging in the course of conduct would be likely to cause B to suffer fear, alarm or substantial distress.

Conduct

2.2.3 Section 1(4) of the Act defines conduct as:

- following the victim or any other person;
- contacting, or attempting to contact, the victim or any other person by any means;
- publishing any statement or other material either -
 - relating/purporting to relate to the victim or any other person, or
 - purporting to originate from the victim or from any other person;
- monitoring the use by the victim or by any other person of the internet, email or any other form of electronic communication;
- entering any premises;
- loitering in any place (whether public or private);
- interfering with any property in the possession of the victim or of any other person;
- giving anything to the victim or to any other person or leaving anything where it may be found by, given to or brought to the attention of the victim or any other person;
- watching or spying on the victim or any other person; or
- acting in any other way that a reasonable person, or a reasonable person who has any particular knowledge of the victim that the perpetrator has, would expect would cause the victim to suffer fear, alarm or substantial distress.

2.2.4 This is not an exhaustive list and prosecutors will consider all of the offending behaviour in deciding whether it fits the concept of stalking, i.e. whether it is a pattern of fixated, obsessive, unwanted and repeated (F.O.U.R) behaviour that is intrusive.

Course of conduct

2.2.5 The Act defines a 'course of conduct' as conduct that has occurred on two or more occasions. This is to capture the repetitive nature of the stalking behaviours that usually occur over a period of time. There is no set time between the incidents of behaviour and the occurrences do not necessarily have to occur in quick succession. However the fewer the incidents and the greater the separation in time, the less likely the court will make a finding of fact that the behaviour is a 'course of conduct'.

2.2.6 Case law provides useful interpretation of a ‘course of conduct’:

- In *Lau v DPP*⁴ it was held that whilst no more than two incidents were needed to constitute a course of conduct - the fewer the number of incidents and the wider the time lapse, the less likely such a finding would be justified.
- In *Kelly v DPP*⁵ the making of three telephone calls within five minutes of each other was held to be capable of constituting a ‘course of conduct’.
- In *Buckley and Smith v DPP*⁶ it was held that a series of four closely related incidents on the same day were sufficiently distinct to amount to a course of conduct.
- In *Jones v DPP*⁷ it was held that there is no requirement that each individual act forming part of a course of conduct must be of sufficient gravity to be a crime itself. Nevertheless, the fewer the incidents, the more serious each is likely to have to be for the course of conduct to amount to harassment.

Fear, alarm or substantial distress

2.2.7 For the offence to be complete it must be proven that either fear, alarm or substantial distress was caused or was likely to be caused. It is not necessary to prove all three.

2.2.8 Fear and alarm are given their ordinary dictionary definitions. Alarm requires an element of more than mere surprise, an element of concern is implied.

2.2.9 ‘Substantial distress’ means distress that has a substantial adverse effect on the victim’s day to day activities. Examples of substantial adverse effects may include:

- The victim changing their route to work, work patterns or employment.
- The victim arranging for someone else to pick their children up from school.
- The victim putting additional security measures in place at home.
- The victim changing the way they socialise or stopping altogether.

⁴ *Lau v DPP* [2000] Crim. L. R 580.

⁵ *Kelly v DPP* [2002] EWHC 1428.

⁶ *Buckley and Smith v DPP* [2008] EWHC 136.

⁷ *Jones v DPP* [2010] EWHC 523.

- Deleting or stopping use of social media accounts.
- Changing phone numbers.
- Carrying a personal attack alarm.
- Not leaving home unaccompanied.
- Moving house.
- Changing children's school.
- Moving house permanently or temporarily.

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

The reasonable person test

2.2.11 The 'reasonable person' test is a legal concept in UK law. It is an objective standard that will be applied by judges and juries to determine whether a reasonable person would foresee that fear, alarm or substantial distress could be caused to the victim, given the particular circumstances of the case.

2.2.12 This safeguard means that perpetrators cannot avoid liability where they claim that the victim has not been impacted by the behaviour.

Intention or recklessness

2.2.13 Prosecutors must prove that the perpetrator intended to cause fear, alarm or substantial distress; or that the perpetrator ought to have known that any of these effects could have been caused. This will be determined by the particular facts and circumstances of the case.

2.2.14 'Recklessness' is a term commonly used in criminal law. It means the perpetrator did not think about the consequences of their actions when they ought to have, or that they were indifferent to (i.e. did not care about) the consequences of their actions.

Behaviour outside the UK

2.2.15 Section 1(3) of the Act gives the courts in Northern Ireland the power to deal with any conduct amounting to stalking occurring outside the UK (for example online stalking) provided that the behaviour would constitute the stalking offence if it occurred in Northern Ireland and the perpetrator is a UK national or habitually resident in Northern Ireland.

2.2.16 Where all of the stalking conduct is committed outside the UK this may still be dealt with by the courts in Northern Ireland.

Statutory defence to stalking

2.2.17 Section 1(5) of the Act creates a statutory defence to stalking. The stalking offence cannot be proven where the perpetrator can show that the conduct:

- was authorised by virtue of any statutory provision or rule of law
- was engaged in for the purpose of preventing or detecting crime; or
- was reasonable in the particular circumstances.

2.2.18 A possible example of a course of conduct being pursued under any enactment or rule of law could arise where a company acting within their legal entitlement, for example a Building Society, warns in writing of repossession proceedings.

2.2.19 The second defence may apply to police or other investigative agencies such as HMRC where someone is legitimately under surveillance or being followed because of suspected or actual criminal or terrorist activity. It could also be raised by individuals such as investigative journalists or Neighbourhood Watch members who claim that their activities are for the purpose of detecting or preventing crime.

2.2.20 The third defence is a wide defence which could be raised in the pursuit of a legitimate trade or profession, for example a private detective.

Alternative offence available for conviction

2.2.21 Section 1(7) of the Act provides that where the court cannot be satisfied that the stalking offence has been made out, the court can convict of the alternative offence of ‘threatening or abusive behaviour’ provided the evidence presented to the court amounts to that offence. Further information on this offence is provided below at 2.3.

Penalty for the offence of stalking

2.2.22 The stalking offence can be prosecuted in both the Magistrates’ and the Crown Courts. The maximum sentence for the stalking offence is 12 months’ imprisonment in the Magistrates’ Court and 10 years’ imprisonment in the Crown Court.

Safeguards for victims of stalking

2.2.23 The Act provides for a number of amendments to criminal procedure to give victims of stalking additional legal safeguards in the criminal court:

- Section 3(2) of the Act provides victims of stalking with automatic eligibility to apply for special measures. A special measures direction may also provide for the exclusion of persons from court when the victim is giving evidence. Further information, including the types of special measures available, is included at Chapter 5.
- Section 3(3) of the Act prevents the defendant from cross-examining the victim, a child witness, or other witnesses in person in charges involving stalking and any other offences connected to the same proceedings.

2.3 The offence of threatening or abusive behaviour

2.3.1 Section 2 of the Act creates a new offence of threatening or abusive behaviour ('TAB'). This offence came into force on 27 April 2022. It does not apply to any behaviour committed before this date.

2.3.2 Section 2 provides that a person ("A") commits an offence of 'threatening or abusive behaviour' where:

- A behaves in a threatening or abusive manner;
- the behaviour would be likely to cause a reasonable person to suffer fear or alarm; **and**
- A intends by the behaviour to cause fear or alarm or is reckless as to whether the behaviour causes fear or alarm.

2.3.3 It is not necessary to prove that another person suffered fear or alarm for this offence to be committed. The test is whether a 'reasonable person' would be likely to suffer fear or alarm as a result of the behaviour.

2.3.4 A perpetrator is said to have acted recklessly where they foresee a risk that harm might be caused to the victim as a result of the behaviour but nevertheless go ahead with the behaviour and take the risk that harm may be caused.

Meaning of behaviour

- 2.3.5 This offence can apply to behaviour of any kind including things said or otherwise communicated, as well as things done. For example, words spoken or written, could amount to behaviour.
- 2.3.6 Behaviour can consist of a single act (for example, shouting and swearing aggressively during an argument) or a course of conduct (for example, sending threatening or abusive emails over a course of days or weeks).

Threatening or abusive

- 2.3.7 The behaviour can be threatening or abusive, it does not need to be both. There is a vast range of actions that could be threatening or abusive in any given context. The court will determine as a question of fact what constitutes a 'threat' or 'abuse' depending on the particular circumstances of the case.
- 2.3.8 Examples of behaviour that can be threatening or abusive are set out at **Annex A**.

Fear or alarm

- 2.3.9 Fear and alarm are given their ordinary dictionary definitions. Alarm requires an element of more than mere surprise, an element of concern is implied.

Statutory defence to TAB

- 2.3.10 Section 2(2) of the Act creates a statutory defence to TAB. It will be a defence where the perpetrator can show that the behaviour was, in the particular circumstances, reasonable. What is reasonable will depend on the particular circumstances of the case.

Penalty for the offence of TAB

- 2.3.11 The TAB offence can be prosecuted in both the Magistrates' and the Crown Courts. The maximum sentence for the TAB offence is 12 months' imprisonment in the Magistrates' Court and 5 years' imprisonment in the Crown Court.

2.4 Stalking Protection Orders

- 2.4.1 Stalking Protection Orders (SPOs) were introduced in Northern Ireland on 19 October 2023. SPOs are civil orders, the aim of which is to protect victims of stalking. SPOs are made on application to the Magistrates' Court by the police. They *cannot* be applied for by prosecutors.
- 2.4.2 Applications for a SPO are freestanding. No prior prosecution proceedings or convictions for stalking offences are required to apply for an order. Police may apply for an order where:
- A victim has reported stalking behaviour, or it has come to the attention of police during a separate investigation or by other means;
 - At any point during the course of an investigation, up to and including the point of conviction, acquittal or at any time after the conclusion of criminal proceedings, or where an investigation has not yet commenced; and
 - There is a belief that the victim is at risk of harm from the respondent and an order is necessary to protect them from such risk.
- 2.4.3 The court has the power to consider an application and to make an order at any stage, where it is satisfied that all of the following conditions are met:
- The respondent has carried out acts associated with stalking;
 - The respondent poses a risk of stalking to a person;
 - There is reasonable cause to believe the proposed order is necessary to protect the other person from that risk (the person to be protected does not have to be the victim of the acts associated with stalking set out above).
- 2.4.4 Applications for SPOs can be made in both a domestic abuse context (such as stalking by a former intimate partner or family member) and in a case of so called 'stranger stalking'. Police can also consider applying for an order not just to protect the victim but also, where necessary, anyone connected to the victim who may also be at risk of being stalked.
- 2.4.5 An SPO can place prohibitions and / or requirements on perpetrators to protect the victim from the risk of stalking. A prohibition or requirement has effect in all parts of the United Kingdom unless expressly limited to a particular locality.
- 2.4.6 Examples of prohibitions include:

- Entering certain locations or defined areas where the victim resides or frequently visits;
- Contacting the victim by any means, including via telephone, post, email, SMS text message or social media;
- Contacting or interacting with the victim via third parties, for example friends or family;
- Making reference to the victim on social media either directly or indirectly;
- Making vexatious applications to the civil court (including the Family Court) which reference the victim;
- Recording images of the victim;
- Using any device capable of accessing the internet unless it has the capacity to retain and display the history of internet use;
- Physically approaching the victim (at all, to within a specified area or as outlined on a map);
- Engaging in any form of surveillance of the victim by any means.

2.4.7 Examples of positive requirements (where available) include:

- Attend an assessment of suitability for treatment;
- Attend an appropriate perpetrator intervention programme;
- Attend a mental health assessment;
- Attend a drugs and / or alcohol programme;
- Surrender electronic devices;
- Provide police with access to social media accounts, mobile phones, computer, tablets and passwords / codes;
- Sign at a police station.

2.4.8 Children and young people under the age of 18 can be protected by SPOs. They can also be the subject of a SPO. Children and young people aged from 10 years up to their eighteenth birthday, who are the respondents to an order, will be subject to the same provisions as adults, but their applications will be dealt with by the Youth Court.

2.4.9 Further detailed statutory guidance about Stalking Protection Orders and the process police must follow when making an application to the court can be accessed [here](#).

Breach of an SPO

2.4.10 Breach of an SPO without reasonable excuse is a criminal offence and will be prosecuted by the PPS where the Test for Prosecution is met. A single

incident may be a breach of the order and a pattern of behaviour is not required.

- 2.4.11 This is an either way offence punishable on summary conviction with imprisonment for a term not exceeding 6 months or a fine or both. On indictment, this offence carries a term of imprisonment not exceeding 5 years or a fine or both. .

Interim orders

- 2.4.12 An interim SPO is a temporary order imposing prohibitions and/or positive requirements. The purpose of an interim order is to protect the victim during any period between the application for a full order and its determination. The application for an interim order is made by police and provides a speedier process when there is an immediate risk of harm. Breach of an interim SPO without reasonable excuse is also a criminal offence and will be prosecuted by the PPS where the Test for Prosecution is met.

Breach of notification requirements

- 2.4.13 A person subject to a full or interim SPO must notify the police of their name(s) and their home address, within a period of 3 days from the date when the order is served.⁸ The person subject to the order commits a criminal offence if they fail, with no reasonable excuse, to comply with the notification requirements, provide police with information they know to be false or refuse a request by police to take the person's fingerprints and/or photograph. This offence is punishable on summary conviction with imprisonment for a term not exceeding 6 months or a fine or both. On indictment, this offence carries a term of imprisonment not exceeding 5 years or a fine or both.

2.5 How prosecutors will use the offences created under the Act

- 2.5.1 There is overlap in some of the elements of stalking and TAB with other existing criminal offences such as the domestic abuse offence, harassment, and communication offences under the Communications Act 2003 and the Online Safety Act 2023.

⁸ The notification requirements do not apply to a person who is already subject to notification requirements under Part 2 of the Sexual Offences Act 2003, Part 8 of the Justice (NI) Act 2015 or Schedule 3 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (NI) 2015. If any of these requirements were to cease before the expiry of the SPO, notification requirements would then apply.

- 2.5.2 Prosecutors will consider all the circumstances of the case to arrive at a decision on the appropriate charge, applying the Test for Prosecution (see Chapter 3).
- 2.5.3 Prosecutors will adhere to other PPS policies such as the [Policy for Prosecuting Cases of Domestic Abuse](#) and the [Guidelines for Prosecuting Cases involving Electronic Communications](#).

Stalking or domestic abuse?

- 2.5.4 Statistics show that the majority of stalking cases are being carried out by a partner or ex-partner. Many victims will also have reported domestic abuse during the course of the relationship.
- 2.5.5 Rejected stalking is one of the most common forms of stalking where the stalker was engaged in a previous relationship with the victim. Following the breakdown of the relationship, the stalker may go on to bombard the victim with unwanted and often threatening phone contact or physically stalk the victim at home or at work.
- 2.5.6 There is some overlap in the elements of the domestic abuse offence⁹ and stalking. Monitoring a person's movements or online activity may constitute both the domestic abuse offence and stalking. Obsession, fixation and surveillance may be common in both cases of domestic abuse and stalking. These are key indicators for future serious potential harm and homicide.
- 2.5.7 In these cases prosecutors will be required to make a judgement call as to whether the stalking offence or the domestic abuse offence is most appropriate to charge.
- 2.5.8 Where the stalking behaviours are a continuation of a course of abusive behaviours during the relationship then prosecutors should consider prosecuting all of the behaviours under the domestic abuse offence.
- 2.5.9 Where there have been no previous incidents of abusive behaviour during the course of the relationship, or where a number of months or more have passed without incident since the relationship ended, then the stalking offence may be the more appropriate charge.

⁹ Section 1 of the Domestic Abuse and Civil Proceedings Act (NI) 2021.

Stalking or threatening and abusive behaviour?

- 2.5.10 There are a vast range of behaviours that can be threatening or abusive in any given context outside of stalking. However the statutory guidance issued by the Department of Justice states that *“this offence is a lower offence to the main stalking offence and will provide an alternative charge to those cases that do not meet the threshold of the stalking offence.”*
- 2.5.11 TAB will be used where there is insufficient evidence of a ‘course of conduct’, for example where the allegation only details one incident of stalking conduct or where the prosecutor cannot be satisfied that a course of conduct has been made out; for example, the evidence outlines only two or three incidents occurring over the space of a year.
- 2.5.12 Behaviours that can amount to TAB will therefore be similar to behaviours that amount to stalking outlined at **Annex A**.

Stalking or harassment?

- 2.5.13 Harassment is an offence under Article 4 of the Protection from Harassment Order 1997. Harassment includes alarming a person or causing a person distress. Harassment can include repeated attempts to impose unwanted communications and contact upon a victim in a manner that could be expected to cause distress or fear in any reasonable person.
- 2.5.14 Harassment may be part of a stalking pattern of behaviour / course of conduct. Stalking is however differentiated from harassment as it relates to fixation and obsession rather than nuisance behaviour which is more associated with harassment. The element of fear and fixation is what separates stalking from harassment.
- 2.5.15 Harassment can be irritating and a nuisance, sometimes to the point where a victim feels deeply uncomfortable or distressed. Paragraph 48 of the statutory guidance to the Protection from Stalking Act offers some advice to prosecutors on differentiating between stalking or harassment and states that:

“Harassment usually involves disputes over an issue such as a neighbourhood grievance and can escalate if the issue is not resolved. However, if the dispute or issue is resolved between parties then the behaviour should stop”.

2.5.16 Where there is a choice of charges between stalking or harassment, prosecutors are encouraged to think of stalking in the first instance.

3. How we take decisions in stalking cases

3.1 Role of the investigator

- 3.1.1 Investigation is not the responsibility of the PPS. It is the responsibility of the police to investigate an allegation, to gather evidence in relation to that allegation and to present that evidence to the prosecutor.
- 3.1.2 Investigators may submit files to PPS in one of two ways:
- (i) by charging a person; or
 - (ii) by submitting a report on a person.
- 3.1.3 Though the PPS does not direct the police as to how they should investigate, PPS may provide prosecutorial advice to police upon request, at any stage of an investigation, in order to help build the strongest case. The PPS assumes full responsibility for tracking the progress of the case from the point of charge or receipt of a report from the investigator.

3.2 Role of the prosecutor

- 3.2.1 Prosecutors are required to act independently and take decisions strictly in accordance with the [Code for Prosecutors](#). Prosecutors must also adhere to internal PPS policies and guidance which support prosecutors in their decision-making.
- 3.2.2 When an investigation file is received from police, the prosecutor must analyse and evaluate all the evidence and information that has been submitted in a thorough and critical manner to decide whether a prosecution should proceed.
- 3.2.3 In the vast majority of cases, prosecutors should only decide whether to prosecute after the investigation has been completed and after all the available evidence has been reviewed. If prosecutors do not have sufficient information to take a decision, they should identify evidential weaknesses and request that the investigator, where possible, provide additional evidence to enable a fully informed decision as to prosecution to be taken.
- 3.2.4 Prosecutors also have a general duty to keep prosecution decisions under consideration and take account of any change in circumstances that occurs as the case proceeds. Where new evidence or information becomes available it should be considered along with the existing information and the

Test for Prosecution applied (see below). Where this occurs and the Test for Prosecution is no longer met, the particular charge or charges, or indeed the whole case, should not proceed.

3.3 The Test for Prosecution

3.3.1 Prosecutions are initiated or continued by the PPS only where it is satisfied that the Test for Prosecution is met. This Test is met if:

- the evidence which can be presented in court is sufficient to provide a reasonable prospect of conviction – the Evidential Test; and
- prosecution is required in the public interest – the Public Interest Test.

3.3.2 This is a two-stage test and each stage of the test must be considered separately and passed before a decision to prosecute can be taken. The Evidential Test must be passed before the Public Interest Test is considered. If the Public Interest Test is passed, the Test for Prosecution is met.

3.4 The Evidential Test

3.4.1 Prosecutors determine whether there is sufficient evidence to provide a reasonable prospect of conviction against each defendant on each charge.

3.4.2 A reasonable prospect of conviction exists if, in relation to an identifiable suspect, there is credible evidence which the prosecution can present to a court and upon which an impartial jury, properly directed in accordance with the law, could reasonably be expected to find beyond reasonable doubt that the suspect had committed a criminal offence.¹⁰

3.4.3 This is different to the test which the court will apply, which is deciding whether the offence is proved beyond reasonable doubt; that is, it must be sure that the defendant is guilty before it can convict. It is necessary that each element of this definition is fully examined when considering the Evidential Test for each particular offence.

Applying the Evidential Test to cases of stalking

3.4.4 Stalking cases require a careful and balanced assessment of all relevant evidence. Prosecutors will look at accounts given of the event, any digital material, CCTV and the results of any medical or forensic examinations.

¹⁰ See [Code for Prosecutors](#), pages 15 - 18 for further information.

Prosecutors will advise police on actions that can be taken to address weaknesses in the case. This approach is aimed at building the strongest cases possible whilst ensuring that the investigation is fair.

- 3.4.5 Prosecutors must consider any defence and whether there is any material that could undermine the prosecution case. Prosecutors must assess each undermining feature objectively and then assess the cumulative effect in the overall context of the strengths of the case. Prosecutors must decide if the *combined* effect of such factors after an objective analysis is such that the Evidential Test is not met.
- 3.4.6 Prosecutors must not introduce a requirement for corroboration in these cases. One person's word can be enough, but the quality of the evidence must be assessed in the manner set out above.
- 3.4.7 Stalking involves a series of incidents or behaviours. Prosecutors must ensure that they have all the available information before deciding on the appropriate charge.
- 3.4.8 Prosecutors must consider whether there is any material that might affect the assessment of the sufficiency of the evidence, including examined and unexamined material in the possession of police, and advise on any further reasonable lines of enquiry.
- 3.4.9 Where it becomes clear that the Evidential Test is not met, the case cannot proceed no matter how serious or sensitive it may be.

3.5 The Public Interest Test

- 3.5.1 Once a prosecutor is satisfied that there is sufficient evidence to provide a reasonable prospect of conviction, the next consideration is whether the public interest requires prosecution through the courts. It does not automatically follow that if there is sufficient evidence, there will always be a prosecution.
- 3.5.2 Broadly, the presumption is that the public interest requires prosecution where there has been a contravention of the criminal law. A prosecution will usually take place unless there are public interest factors tending against prosecution that outweigh those tending in favour.

Applying the Public Interest Test to cases of stalking

- 3.5.3 Given the seriousness of stalking offences, a prosecution will normally be required when the Evidential Test is met. There are, however, many factors which may influence consideration of the public interest test, especially in relation to offending by children and youths.
- 3.5.4 Where the Evidential Test is met, but in circumstances where the victim does not support a prosecution, prosecutors will need to carefully consider the interests and safety of the adult and child victim, other family members and other dependants when assessing whether a prosecution is in the public interest, whether to seek a witness summons and whether to pursue a prosecution without the support of the victim (see also 3.9 below).
- 3.5.5 When stalking is alleged to have been committed by young people, prosecutors are required to balance the strong public interest factors in favour of prosecution of such crimes with our obligations to consider the best interests of the child who has been accused of this type of offending. The Code for Prosecutors requires prosecutors to consider the ‘best interests’ principle when dealing with cases involving children and young people and it identifies a range of factors that must be taken into account when determining whether a prosecution is likely to have an adverse impact on their future prospects that is disproportionate to the seriousness of the offending.¹¹

3.6 No prosecution

- 3.6.1 If the prosecutor decides that in any case being considered there is insufficient evidence or it is not in the public interest to prosecute, a decision not to prosecute will be taken.
- 3.6.2 A decision not to prosecute does not preclude any further consideration of the case by the PPS, if new or additional evidence becomes available or a review of the original decision is required.

3.7 Alternatives to prosecution

- 3.7.1 If the Evidential Test is met, the prosecutor may decide that it is in the public interest to dispose of the case by an alternative to prosecution at court, known as a diversionary disposal.

¹¹ Further information can be found in the [PPS Guidelines for the Prosecution of Young People](#).

- 3.7.2 While all offences of stalking must be regarded as serious matters, there are circumstances in which, although the evidence is sufficient to provide a reasonable prospect of conviction, a court-based outcome is not in the public interest. Prosecutors should consider the appropriateness of proceeding by way of a diversionary disposal, particularly where the defendant is a young person.
- 3.7.3 Where a prosecutor is considering a diversionary disposal, the views of the victim should be sought. Prosecutors should take into account the views expressed by the victim and the impact of the offence on them and, in appropriate cases (such as where the victim is a youth) their family, where such views are available. However, the decision whether to offer a diversionary disposal remains one for the prosecutor.
- 3.7.4 The main diversionary disposals available to the prosecutor are:
- Adult caution.
 - Youth restorative caution.
 - Informed warning.
 - Diversionary youth conference.
- 3.7.5 Further information on diversionary disposals are available in the PPS [Guidelines for the Use of Diversionary Disposals](#).

3.8 Risk assessments

- 3.8.1 Risk assessments are usually conducted by the police upon notification of an incident, and can provide invaluable background information to understand the circumstances the victim may be experiencing. The risk assessment should also address any risks around children.
- 3.8.2 The current risk assessment tool used by police in Northern Ireland is the 'DASH' (Domestic Abuse, Stalking and Honour based violence) risk assessment. Police are required to provide prosecutors with relevant information from the DASH risk assessment to enable prosecutors to make informed decisions.
- 3.8.3 The safety of adult and child victims, and other dependants or family members must be considered throughout a prosecution case and updated risk assessments requested by prosecutors where appropriate.
- 3.8.4 Multi-Agency Risk Assessment Conferences (MARAC) may also take place. These are meetings held for victims of domestic abuse who have

been identified by local partner agencies as high risk. The MARAC is an opportunity for partners to share information which might identify further risk to the victim and develop a multi-agency plan to address those risks. The PPS is not involved directly in the MARAC process but police are required to notify prosecutors in cases where a victim is subject to MARAC.

3.9 Retractions and withdrawals by victims

3.9.1 Sometimes a victim will ask police not to proceed any further with an investigation or will ask to withdraw their complaint; or where the victim has made a statement, they may indicate that they no longer wish to give evidence.

3.9.2 There may be a number of reasons why a victim will withdraw their support for a prosecution. This can occur at any stage of the proceedings. Possible reasons why a victim may no longer support a case include:

- Fear of other offences being committed, or risk of further harm (both in person, but also through online technologies);
- Fear of coming face to face with the perpetrator in court;
- Pressure from the perpetrator, the perpetrator's family or associates;
- Pressure from other family members, other members of the community or community 'elders';
- Fear of being publicly shamed, disowned or cast out from the community;
- A wish to be reconciled with the perpetrator, if not already reconciled, or a wish to return to the family, if estranged;
- The victim does not want to re-live the incident;
- A fear of the impact on children, or other dependants, or financial repercussions (such as the receipt of certain child maintenance, tax allowances or financial support through benefits);
- Feelings of isolation or vulnerability, and fears they may not be believed as a result of those vulnerabilities;
- Fears that showing support for a prosecution may place them at further risk of harm;
- Fear of immigration status being made known to law enforcement authorities, or fear that a victim may reveal the perpetrator's immigration status which may not be secure;
- Fear of being 'outed' about their sexual orientation, or gender identity if not already known about;
- Previous negative experiences of the Criminal Justice System.

- 3.9.3 Stalking can have a very significant impact on a victim and the PPS is committed to ensuring that the interests of victims are considered at every stage of the criminal process. This commitment and details of the support available, are set out in our [Victim and Witness Policy](#) which includes information on how the law treats victims who are vulnerable.
- 3.9.4 Where the evidential stage has been met, but the complainant is not willing to support the prosecution, prosecutors should carefully consider the public interest given the nature and serious impacts of such offending.
- 3.9.5 The PPS prosecutes cases on behalf of the public at large and not just in the interests of any particular individual. Whilst the prosecutor will always give careful consideration to the views and interests of the victim when deciding where the public interest lies, these views and interests must be considered along with the interests of wider society, including the risk the perpetrator presents to other individuals. Therefore, the views of the victim are not the deciding factor as to whether or not a case proceeds; that decision is taken by the prosecutor.
- 3.9.6 Where a victim retracts an allegation, police must provide information to the prosecutor explaining the reasons a retraction of the allegation / withdrawal of support has been made. Police should also provide prosecutors with an up-to-date risk assessment so that an informed decision about next steps can be taken.
- 3.9.7 Depending on the nature of this information, it may still be possible to continue with proceedings without the victim's active support. Careful consideration must be given to public interest factors, including the interests and safety of the victim, other family members and any children or other dependants. To properly assess the public interest, prosecutors must be made aware of any children living in a household. The impact on children must always be taken into consideration, as it may increase the seriousness of the offence, and influence the final prosecution decision.
- 3.9.8 Factors which are useful when considering the public interest may include:
- The seriousness of the offence - the more serious the offence, the more likely it is that a prosecution is required;
 - Whether any threats were made;
 - Whether the defendant has any previous convictions or out of court disposals, or record of any other offending whilst on bail or whilst subject to a court order;

- Whether the offending was or is likely to be continued, repeated or escalated;
- The age or level of maturity of the defendant;
- Whether the offence was motivated by any form of discrimination against the victim's ethnicity, gender identity or sexual orientation, mental or physical capacity, age, religion, immigration status, employment status, social background etc.;
- If there were any children or other vulnerable dependants living in the household;
- Whether the offence took place in the presence of, or near a child;
- Any continuing threat to the health and safety of the victim (irrespective of the relationship status), or anyone else who is, or may become involved;
- The history of the relationship, particularly if there has been any violence in the past.

3.9.9 If it is suspected that the victim has been pressured or frightened into withdrawing the complaint, the prosecutor will ask the police to investigate further. The investigation may reveal new offences, for example, witness intimidation. If necessary, the prosecutor will ask the court to delay any hearings so that a thorough investigation can take place before a decision is made in respect of the case.

3.9.10 The fact that a victim withdraws their support does not mean they can no longer engage with police. The victim is still entitled to have future complaints investigated fully.

3.10 What happens if there is a decision not to prosecute?

3.10.1 Where a victim supports a prosecution, we understand how disappointing it can be for them to be told that, after careful consideration, a decision has been taken not to prosecute. Every effort is made to ensure that communication with victims in cases of stalking is timely, sensitive and clear.

3.10.2 Where there is insufficient evidence, or it is not in the public interest to prosecute an individual, a no prosecution decision will be issued. This is often very difficult for victims to hear. It does not mean that the prosecutor does not believe the victim. It is simply that there is not enough evidence to meet the very high standard of proof that the law requires for the offence to be proved, or it is not in the public interest to prosecute this particular case. The victim will be informed of this decision by a letter from their VWCU Case Officer.

- 3.10.3 The giving of reasons for not prosecuting is an important and sometimes complex issue. Following a decision not to prosecute, a victim is entitled to be notified in writing of the reasons why this decision was taken, how further information about the decision can be accessed and how a review of this decision can be requested. The PPS gives reasons in all cases where a decision not to prosecute is taken.
- 3.10.4 Further information on the PPS's approach to the giving of reasons is provided in the Code for Prosecutors.¹²

3.11 Review of decisions not to prosecute

- 3.11.1 The public should be able to rely on decisions as to prosecution taken by the PPS. Generally, if the PPS tells a suspect or a defendant that there will not be a prosecution, or that the prosecution is stopped, that is the end of the matter and the case will not start again. However, there may be reasons why the PPS will review a decision not to prosecute, for example, where we are asked to do so by the victim or where new evidence or information becomes available.
- 3.11.2 Any victim of a crime reported to the PPS by the police can apply for a review of a decision by us not to prosecute. The review procedures are detailed in the Code for Prosecutors.¹³

¹² See paragraphs 4.70 – 4.74 of the Code.

¹³ See paragraphs 4.63 – 4.69 of the Code. Additional guidance on the steps needed to make a request for a review can be accessed [here](#).

4. Dealing with the case at court

4.1 Cases where a suspect is charged

- 4.1.1 If a suspect has been charged by police with an offence involving stalking, the police will take the decision as to whether it is appropriate to release the suspect on police bail to attend a court hearing within a short period of time. However, police may also decide to keep the defendant in custody so that he / she may appear at the next available Magistrates' Court (usually the next day) for a remand hearing. At the hearing, the defendant is entitled to make an application to be released from custody on bail.
- 4.1.2 The District Judge (Magistrates' Court) will decide whether bail is appropriate after hearing representations from both the prosecution and the defence. In order to enable the prosecutor to make representations to the court, police will have provided relevant evidence and information to the prosecutor. The prosecutor's primary concern should be the safety of the victim and any children or other dependants.
- 4.1.3 The VWCU Case Officer has a role in informing the victim if a defendant in custody is granted bail (including any relevant bail conditions imposed by the court) or, if the defendant is already on bail, whether there are any significant changes to the relevant bail conditions.¹⁴
- 4.1.4 Where an application is made to vary bail, prosecutors should insist that the defence give proper notice so that enquiries can be made of the victim to seek their views and check whether any other court orders exist or are pending.
- 4.1.5 Where a prosecutor considers that bail should not have been granted, perhaps because of a high risk of the perpetrator reoffending or contacting witnesses, the PPS can appeal the decision of the District Judge. Victims will be kept informed.

4.2 What happens when a case is listed for trial

- 4.2.1 When a case is listed for trial it can be a particularly anxious period for a victim, especially with the prospect of giving evidence. For many victims, attending court to give evidence is the most daunting part of the criminal

¹⁴ *Relevant bail conditions are those conditions which are likely to impact on the victim. Subject to the individual circumstances of the case, information in respect of bail may be provided to the victim by another party, for example by the Investigating Officer.*

justice process. The PPS is committed to trying to alleviate any concerns and making court as stress-free as possible. The PPS is also committed to ensuring prosecutors have the right skills to prosecute stalking cases effectively, including the ability to deal sensitively with victims and witnesses.

- 4.2.2 Information on the support that victims can expect to be put in place to make attendance at court less stressful can be found at Chapter 5 of this policy.
- 4.2.3 When a victim attends court, the prosecutor will make every effort to make themselves or another representative available to answer any questions and provide updates on the progress of the contest or trial. Victims are entitled to ask for clarification from the prosecutor of any matter that is discussed. The prosecutor may also indicate how long the victim may have to wait before giving evidence. Where there is a delay, or if the case cannot proceed, the prosecutor will provide this information as soon as possible, together with an explanation. They will also try to speak to victims and witnesses before they give evidence and try to put those who may be nervous at ease.
- 4.2.4 When giving evidence, the prosecutor will treat victims respectfully and, where appropriate, will seek the court's intervention where they consider that the questioning by the defence is inappropriate or aggressive.
- 4.2.5 In most contests / trials (i.e. where the defendant pleads not guilty), the defendant's legal team will challenge the victim's account of the allegations. This is normal and is allowed in law. The defence have a duty to act in the best interests of their client and to challenge the victim about his or her account.
- 4.2.6 While the prosecutor will do everything possible to make the process of giving evidence as easy as possible, it is ultimately a matter for the Judge to make sure that the trial is conducted in a fair and just manner.

4.3 Acceptability of pleas

- 4.3.1 The defence may on occasion approach the PPS with an offer for the defendant to plead guilty to only some of the charges that they are facing, or to a lesser charge or charges, with the remaining charges not to be proceeded with. Whilst 'plea bargaining' has no place in the practice or procedures of the PPS, in some cases the prosecutor may consider accepting a guilty plea from the defendant to a different charge. This might

arise, for example, because the victim no longer wishes to proceed, or because new evidence has come to light. However, the general principle is that the decision to prosecute, and the offences to be prosecuted, should not be altered unless there is proper reason to do so which is consistent with the evidence and the information available at the time and meets the requirements of justice.

- 4.3.2 When considering whether to accept a plea to alternative charges, where possible the prosecutor should discuss the situation with the victim. The victim's views should be taken into account to ensure that the prosecutor is informed of all information before making a decision. Unless there are exceptional circumstances, the acceptance of alternative pleas should be transparent with the prosecution able to explain their reasons for accepting the pleas in open court.
- 4.3.3 When considering whether to accept a plea of guilty to a different, and possibly less serious charge, the PPS will take the proper interests of victims into account as required under the Victim Charter.

4.4 Sentencing

- 4.4.1 If the defendant is convicted of an offence involving stalking or pleads guilty, the judge will decide the sentence. In some cases, the sentence handed down by the judge may not always be what the victim had hoped for.
- 4.4.2 The PPS will make sure that the court has all the information it needs to sentence appropriately, including any relevant information contained in a Victim Personal Statement or in a Victim Impact Report which may have been requested by the court. A Victim Personal Statement is a statement made by a victim, setting out in their own words the effect that the crime has had upon them (see also 4.5 below), while a Victim Impact Report is a report prepared by a professional, such as psychiatrist or psychologist, at the request of the court.
- 4.4.3 The prosecution has a duty to assist the judge with the law and guidelines on sentencing, including any ancillary orders that may be available to the court.
- 4.4.4 Upon conviction or following a guilty plea, the defendant is entitled to enter a plea in mitigation of sentence. This may include information about previous good character or other factors the defendant wishes to be considered before a sentence is imposed. Ultimately these issues are for

the judge to consider as part of his/her decision on sentencing. However, the prosecutor will be alert to mitigation that attempts to detract from the character of a prosecution witness, and will challenge anything misleading, untrue or unfair.

4.4.5 In addition to imposing a sentence, where the court is satisfied that it is necessary for the purpose of protecting the public or any particular members of the public from serious harm by the perpetrator, the judge may also impose an order or orders on the defendant. These are referred to as ‘ancillary orders’.

4.4.6 Examples of ancillary orders include:

- A Sexual Offences Prevention Order (SOPO) is an order which the court may make for the purpose of protecting the public or any particular members of the public from serious sexual harm from the defendant.
- A Violent Offences Protection Order (VOPO) is an order which the court may make for the purpose of protecting the public or any particular members of the public from violence from the defendant.
- A Restraining Order is a civil order which may contain such restrictions or prohibitions as the court considers appropriate to protect a person from harassment by the defendant.

4.5 Victim Personal Statements

4.5.1 A victim personal statement is a written statement by the victim to the court about how a crime has affected or continues to affect them. Victims are entitled to provide a victim personal statement where the case is to go to court. The VVCU will provide an information leaflet about this, where a decision has been taken to prosecute.

4.5.2 Making a victim personal statement allows the views of the victim to be heard during criminal proceedings. However, it is entirely their choice. The victim personal statement provides an opportunity for the victim to explain in their own words how a crime has affected or continues to affect them, for example, physically, emotionally, financially or in any other way. If the person completing the statement is not the actual victim or bereaved family member, for example a parent or representative, they can set out how the crime has affected both them and/or the victim. Views on the defendant or any punishment to be given should not be included in the statement.

4.5.3 The victim personal statement will be used in court if the defendant is found guilty or pleads guilty. It will be seen by the prosecution, the defendant, their legal representative and the judge.

4.5.4 Further information on making a Victim Personal Statement can be accessed [here](#).

4.6 Appeals

4.6.1 All defendants convicted of a criminal offence have a right to lodge an appeal. If this occurs, the VWCU Case Officer will make contact with the victim to explain this and whether the appeal is against conviction and / or the sentence.

4.6.2 Victims will be informed of the dates, times and locations for any appeals. If it is an appeal against conviction, the victim may have to attend court again to give evidence. A further needs assessment may be conducted to ensure that up to date information is obtained regarding specific needs and to ensure that adequate support services and other measures are put in place at court.

4.6.3 The VWCU Case Officer will inform the victim of the outcome of any appeal, including any changes to the original sentence following the completion of the appeal. If the victim is present at court for the appeal, the prosecutor will also explain the outcome and the effect of the sentence.

4.7 Tackling avoidable delay

4.7.1 The PPS is aware of the impact that unnecessary delay can have on victims and witnesses and is committed to working with partners to improve the progress of cases through the criminal justice system.

4.7.2 Cases involving stalking will generally be prosecuted in the Magistrates' Court, however repeat perpetrators and serious stalking offences may be prosecuted in the Crown Court. They will begin in the Magistrates' Court and then be transferred to the Crown Court by a process referred to as committal. Where a defendant pleads not guilty, the case will need to be listed for trial and witnesses invited to attend.

4.7.3 Where possible, the PPS will make sure that cases of stalking are not delayed without good reason and every effort will be made to ensure that the victim is kept informed of the reason for any significant delay in the proceedings.

- 4.7.4 Often decisions about the progress of a case may be taken at court. Victims will be informed about those decisions by the prosecutor when they are at court. If they are not at court, they will be informed as soon as possible afterwards either by the PPS or by the police.
- 4.7.5 A case proceeding to contested hearing / trial may be adjourned for a variety of reasons, including the unavailability of a prosecution witness. Even where there has been a guilty plea the court may require reports to help them sentence and there may be further adjournments required.
- 4.7.6 Adjournments may also be sought by the defence for a variety of reasons including the unavailability of their witnesses and / or for further time to prepare their case. Obtaining expert reports can be particularly time-consuming. Whilst prosecutors may raise objections to adjournment requests, the decision on any adjournment is ultimately a matter for the judge who will seek to be fair to all parties when making decisions about adjournments.
- 4.7.7 Delay in decisions as to prosecution or in cases proceeding at court can add to the distress of a victim. We want to ensure that all victims understand the reasons for any delay and are fully informed and supported to participate in the trial process. We would encourage any victim with concerns about the progress in their case to make this known, either directly to PPS, to the investigating officer or via your advocate or any support organisation with which you may be engaging.

5. Helping victims and witnesses to give evidence

5.1 Special measures

5.1.1 Giving evidence can be a particularly traumatic experience for victims of stalking. Some victims, quite understandably, find it difficult to give evidence in the view of the defendant. The PPS can apply for special measures to make the experience more comfortable and to support the victim to give their best evidence.

5.1.2 Examples of special measures include:

- A live link television link ('live link') allowing the victim to give evidence away from the courtroom. In some courts, this facility may be provided in a Remote Evidence Centre so that the victim is not required to enter the court building (see 5.2 below). The victim may also have a supporter (whose role it is to provide emotional support) with them when they give evidence from the live link room. This is normally a member of the NI Witness Service or NSPCC's Young Witness Service;
- Screens or curtains which can be used in the courtroom so that the victim does not have to see the defendant, and in some cases, the public gallery;
- Giving evidence in private – the public gallery can be cleared in cases involving domestic abuse where the court is satisfied that someone other than the defendant may seek to intimidate the victim;
- Removal of wigs and gowns by Judges and by the defence and prosecution teams;
- Video recorded statements - these allow the use of a pre-recorded video statement as the victim's main evidence;
- Assistance from a Registered Intermediary to assist those persons with significant communication difficulties (see 5.4 below); and
- Using communication aids - these are devices, such as alphabet boards, which help victims to understand questions and give their answers.

5.1.3 Victims of stalking are automatically eligible to apply for special measures. However the judge will make the final decision about whether special measures will be allowed. The court will only allow a special measure where it considers that the measure would be likely to improve the quality of evidence given by the victim or witness.

- 5.1.4 The prosecutor will consider what special measures might assist the victim or witness to give their evidence, and then make an application to the court. The views of the victim and witness are taken into account. Ideally, early decisions should be taken about special measures to assist victims and witnesses.
- 5.1.5 A victim or witness who is under 18 on the proposed date of trial is automatically eligible for special measures without further qualification as per Article 4(1) of the Criminal Evidence (Northern Ireland) Order 1999.
- 5.1.6 The PPS will ensure that victims and witnesses are made aware that they can change their mind in relation to whether they wish to avail of special measures. In some cases, victims may initially state that they do not want any special measures but, when the date of the main hearing approaches, decide that they do. In these circumstances a late application can still be made. Further information about special measures and services for vulnerable or intimidated witnesses is available on the PPS website.
- 5.1.7 The defendant has no right to cross-examine a victim of an offence of stalking in person. If the defendant has not appointed an advocate, the court will be required to consider satisfactory alternatives and can appoint an advocate for the purpose of cross-examining the victim.

5.2 Remote Evidence Centres

- 5.2.1 Remote Evidence Centres (RECs) are currently available at two locations (in Belfast and Craigavon), to allow victims and witnesses to give their evidence away from the court building to avoid the risk of meeting the defendant or their supporters and reduce the anxiety of giving evidence.
- 5.2.2 Where a victim has expressed concerns about attending at the courthouse, prosecutors will consider whether giving evidence at the REC would benefit the victim and make the necessary application.

5.3 Interpreter provision

- 5.3.1 We recognise there will be victims and witnesses for whom English is not their first language. In these cases, the PPS will seek advice from police as to the victim's or witness's ability to give and understand oral evidence in English or whether the witness requires the use of an interpreter. The PPS will try to ensure that the interpreter engaged is familiar with the particular dialect or regional variation of the foreign language which the witness uses.

- 5.3.2 The PPS will arrange for the provision of sign-language interpreters for witnesses who are deaf or hard of hearing.

5.4 Registered Intermediaries

- 5.4.1 Registered Intermediaries (RIs) are recruited, trained and accredited by the Department of Justice. They have specialist skills in communication and come from backgrounds such as speech and language therapy, clinical psychology and social work. They assist vulnerable victims / witnesses with significant communication difficulties to give their answers more coherently and effectively during the police investigation and/or any subsequent criminal trial. RIs currently operate in respect of criminal cases being heard in all Crown, Magistrates' and Youth Courts.
- 5.4.2 Police will generally identify whether a victim requires an RI during their investigation. Prosecutors may also identify whether the services of an RI are required upon receipt of the police file. Further information in respect of RIs is available [here](#).

5.5 Witness Service and Young Witness Service

- 5.5.1 There are two witness support schemes available in courthouses in Northern Ireland: one for adult witnesses (the Witness Service) provided by Victim Support Northern Ireland; and one for younger witnesses under the age of 18 (the Young Witness Service), provided by NSPCC. Victim Support Northern Ireland and the NSPCC aim to support victims and prosecution witnesses before, during and after the experience of attending court to give evidence.
- 5.5.2 The aim of the Witness Service is to support victims and prosecution witnesses, along with their families and friends, to deal with attending court and giving evidence. The Witness Service normally contact the victim or witness before the court hearing to offer its services. Trained volunteers offer confidential services free of charge.
- 5.5.3 Further information about the witness service available for adults can be accessed [here](#). Information about witness services for children and young people under 18 can be accessed [here](#).

5.6 ASSIST NI

- 5.6.1 ASSIST NI is an independent advocacy service, launched in Northern Ireland on 1 September 2021. This service is accessible to victims of both

domestic and sexual abuse, regardless of the level of risk posed to them, their gender, age, or where they live within Northern Ireland. Advocates will identify the victim's individual risks and needs and ensure clients are referred to specialist services as appropriate.

- 5.6.2 ASSIST NI support clients within the criminal justice system throughout the process and will liaise with criminal justice partners on behalf of the client as needed. This will include liaison with PPS and PSNI in order to track progress of particular cases through the criminal justice system. Advocates are skilled in dealing with both adults and young persons who are victims of domestic and sexual abuse.
- 5.6.3 Further information on ASSIST NI and the services it provides can be accessed [here](#).

5.7 Other support services

- 5.7.1 A range of specialist agencies can provide advice and support to victims of stalking at any stage. Contact details for some of these support services can be found in **Annex D**.

Annex A: Stalking behaviours

Stalkers tend to focus solely on the victim, becoming obsessed with them by contacting them or watching them, even though the attention is unwanted. Further examples of stalking behaviour include:¹⁵

- Contacting the victim's children, partner, other family members, friends, co-workers' or other third parties.
- Stalking by proxy (stalking people connected to the 'primary' victim).
- Sending unsolicited gifts or other items to the victim.
- Hacking the victim's social media accounts, email, phone or computer.
- Using multiple social media accounts, email addresses or phone numbers to contact the victim, which may include the use of aliases.
- Information gathering on the victim, such as by contacting third parties, searching public records, stealing private documents belonging to the victim or viewing them without the victim's knowledge.
- Impersonating the victim in order to gather information about them.
- Bringing vexatious litigation or making vexatious counter-allegations against the victim, or otherwise using official processes to perpetuate contact with the victim, causing them distress or to drain their resources.
- Cancelling or procuring goods or services to the victim.
- Joining the same gym, church, medical practice, educational course, workplace, sports club or other group as the victim.
- Criminal damage or breaking into the victim's home, garden or vehicle.
- Creating or exploiting disputes between the victim and their friends, family or wider support network, to isolate the victim and make them dependent on the perpetrator.
- Creating social media posts or websites containing malicious or personal content relating to the victim, or referencing things which would have meaning only to the victim.
- Threatening violence against the victim, or actually attacking them.
- Monitoring the victim by planting tracking or bugging devices, or by installing or activating a programme or application on the victim's personal devices.
- Publishing or threatening to publish personal information or images relating to the victim (so called 'revenge porn').
- Threatening suicide or self-harm, or otherwise manipulating the victim to respond to contact.

¹⁵ [Stalking Offence Statutory Guidance](#) (Department of Justice for Northern Ireland).

Stalkers can be particularly adept at exploiting professionals, agencies and systems and may use a range of tactics in order to perpetuate contact with and control over the victim, including:

- Deliberately targeting people who might be vulnerable.
- Manipulating a person's mental health (for example, make them think they are going 'mad').
- Causing or creating vexation or using the system against the victim by making vexatious complaints.
- Making counter-allegations against the victim, e.g. calling in false reports or claiming to be a victim of the stalking behaviour of the actual victim.
- Attempting to frustrate or interfere with the police investigation.
- Using threats in order to manipulate the victim: e.g. by telling the victim they will make a counter-allegation; they will inform social services; or they will inform immigration officials if the victim does not have permission to be in NI.

Annex B: The impact of stalking

Stalking can impact on all aspects of a victim's life. The effects of stalking can be severe and continue long after the stalking has ended. Some effects of stalking are detailed below:

Effects on mental health can include:

- Apprehension, fear, terror of being alone or that they, others or pets will be harmed.
- Feeling isolated or helpless.
- Becoming suspicious, introverted or aggressive.
- Anxiety, panic attacks, agoraphobia
- Inability to sleep
- Symptoms of post-traumatic stress disorder
- Hypervigilance

Effects on physical health can include:

- Fatigue from difficulty sleeping, being on guard.
- Symptoms of depression.
- Exacerbation in pre-existing conditions.

Effects on work or school can include:

- Deteriorating school/work performance.
- Increased sick leave.
- Leaving job or being sacked.

Effects on social life can include:

- Insecurity and inability to trust others.
- Isolation.
- Others withdrawing from the victim because they do not believe the victim or as a direct consequence of third party victimisation.
- Victim moving to a new area, changing phone numbers, deleting social media accounts.

Effects on finances can include:

- Loss of wages due to sick leave or job loss.
- Costs incurred through legal fees.

POLICY FOR PROSECUTING CASES OF STALKING

- Costs involved in preparing property damage or securing property.
- Costs of counselling or expense of relocation when victim is forced to leave home.

Annex C: Types of stalkers

Behaviours may amount to stalking depending on:

- The **context** of the behaviour.
- The **motivations** driving the behaviour.
- The **impact** on the victim.

The '[Stalking Risk Profile](#)' assists investigators and prosecutors in understanding stalking behaviour and risk. This profile divides stalkers into five types and considers the context in which the stalking arises and the stalker's motivation for contacting the victim:

The Rejected Stalker

Rejected stalking arises in the context of the breakdown of a close relationship. Victims are usually former sexual intimates; however family members, close friends or others with a very close relationship to the stalker can also become targets of rejected stalking. The initial motivation of a rejected stalker is either attempting to reconcile the relationship, or to exact revenge for a perceived rejection. In many cases rejected stalkers can appear ambivalent about the victim and sometimes appear to want the relationship back, while at other times presenting as angry and wanting revenge on the victim. In some cases of protracted stalking the behaviour is maintained because it becomes a substitute for the past relationship and allows the stalker to continue to feel close to the victim. In other cases behaviour is maintained because it allows the stalker to salvage their damaged self-esteem and feel better about themselves.

The Resentful Stalker

Resentful stalking arises when the stalker feels as though they have been mistreated or that they are the victim of injustice or humiliation. Victims are strangers or acquaintances who are seen to have mistreated the stalker. Resentful stalking can arise out of a mental illness when the perpetrator develops paranoid beliefs about the victim and uses stalking as a way of 'getting back' at the victim. The initial motivation for stalking is the desire for revenge or to 'even the score' and the stalking is maintained by the sense of power and control that the stalker derives from inducing fear in the victim. Often resentful stalkers present themselves as a victim who is justified in using stalking to fight back against an oppressing person or organisation.

The Intimacy Seeking Stalker

Intimacy seeking stalking arises out of a context of loneliness and a lack of a close confidante. Victims are usually strangers or acquaintances who become the target of the stalker's desire for a relationship. Frequently intimacy seeking stalking is fuelled by mental illness involving delusional beliefs about the victim, such as the belief that they are already in a relationship with the stalker even though none exists. The initial motivation is to establish an emotional connection and an intimate relationship. The stalking is maintained by the gratification that comes from the belief that they are closely linked to another person.

The Incompetent Suitor

The incompetent suitor stalks in the context of loneliness or lust and targets strangers or acquaintances. Unlike the intimacy seeker, however, their initial motivation is not to establish a loving relationship but to get a date or a short term sexual partnership. Incompetent suitors usually stalk for brief periods, but when they do persist their behaviour is maintained by the fact that they are blind or indifferent to the distress of the victim. Sometimes this insensitivity can be associated with cognitive limitations or poor social skills.

The Predatory Stalker

Predatory stalking arises in the context of deviant sexual practices and interests. Perpetrators are usually male and victims are usually female strangers in whom the stalker develops a sexual interest. The stalking behaviour is usually initiated as a way of obtaining sexual gratification (e.g. voyeurism targeting a single victim over time) but can also be used as a way of obtaining information about the victim as a precursor to a sexual assault. In this sense the stalking is both instrumental and also gratifying for those stalkers who enjoy the sense of power and control that comes from targeting the usually unsuspecting victim.

Annex D: Useful contacts and sources of support

Public Prosecution Service

Policy and Information Unit

Policy and Information Unit
Public Prosecution Service
Belfast Chambers
93 Chichester Street
Belfast BT1 3JR

Telephone: (028) 9089 7100
Deaf/Hard of hearing (SMS): 07795 675528
Email: info@ppsni.gov.uk (for general enquiries)
complaints@ppsni.gov.uk (for complaints)

Website: www.ppsni.gov.uk

Belfast and Eastern Region / Headquarters Sections

Belfast Chambers

93 Chichester Street
Belfast BT1 3JR

Telephone: (028) 9054 2444
Deaf/Hard of hearing (SMS): 07795 673927

Western and Southern Region

Foyle Chambers

35 Limavady Road
Londonderry BT47 6LP

Telephone: (028) 7134 0648
Deaf/Hard of Hearing (SMS): 07795 675338

Omagh Chambers

2 Townhall Square
High Street
Omagh BT78 1BL

Telephone: (028) 8224 4319
Deaf/Hard of Hearing (SMS): 07795 831188

Newry Chambers

1 Downshire Close
Newry BT34 1FD

Telephone: (028) 3083 2500
Deaf/Hard of Hearing (SMS): 07795 810114

Victim and Witness Care Unit

Belfast Office (for Belfast and Eastern Region)

Belfast Chambers
93 Chichester Street
Belfast BT1 3JR

Telephone: (028) 9026 4690
Deaf/Hard of Hearing (SMS): 07825 118389
Email: vw cubelfast@ppsni.gsi.gov.uk

Foyle Office (for Western and Southern Region)

35 Limavady Road
Londonderry BT47 6LP

Telephone: (028) 7134 0632
Deaf/Hard of Hearing (SMS): 07825 118416
Email: vwcufoyle@ppsni.gsi.gov.uk

Police Service of Northern Ireland

65 Knock Road
Belfast BT5 6LE
Telephone: 028 9065 0222
Website: www.psnipolice.uk

National Stalking Helpline

Tel: 0808 802 0300
Operated by the Suzy Lamplugh Trust
Website: www.suzylamplugh.org

Domestic and Sexual Abuse Helpline

The Domestic and Sexual Abuse Helpline can be contacted free of charge, 24 hours a day, 365 days a year. This is a confidential service available to both women and men. A telephone translation service is also available. Trained helpline workers can talk about the help and support that you could get. You can also contact the Helpline if you are worried about a friend or relative and you want support on how to help them.

The Helpline also provides information to statutory agencies and charities. To contact the Helpline call **0808 802 1414**. It is free and the number does not appear on a landline telephone bill. You can also send an email to the Helpline address help@dsahelpline.org. The email service is also confidential and does not record your email address. Visit www.dsahelpline.org for more information and webchat.

You can also seek emotional and practical support from Victim Support NI if you have been affected by crime.

Victim Support NI

Victim Support NI helps people affected by crime.

Telephone: 028 90243133

Email: info@victimsupportni.org.uk

Web: www.victimsupportni.com

NSPCC

NSPCC provides therapeutic services to help children move on from their abuse, as well as supporting parents and families in caring for their children.

Helpline: Telephone 0808 800 5000

Childline: Telephone 08001111

Women's Aid Federation NI

Women's Aid NI work to provide trauma informed support services to women, children and young people who have experienced abuse.

Telephone: 028 9024 9041

Email: info@womensaidni.org

Website: www.womensaidni.org

The Men's Advisory Project (MAPNI)

The Men's Advisory Project NI offer support services to men who have faced, or are facing abuse across all of Northern Ireland.

Phone: 02890 241929 (Belfast)

Phone: 02871 160001 (Foyle)

Email: info@mapni.co.uk

Website: www.mapni.co.uk

The Rainbow Project

The Rainbow Project is a health organisation that works to improve the physical, mental and emotional health and well-being of LGBTQIA+ people and their families.

Telephone: 02890 319090

Email: info@rainbow-project.org

Website: www.rainbow-project.org



If you require any further information about the PPS, or a copy of this document in an alternative format, please contact:

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