



HMCPSP

HM Crown Prosecution
Service Inspectorate

An examination of cases referred to the Crown Prosecution Service included in the London Stalking Review 2024

**A review of the cases that
featured in the London Stalking
Review published 23 July 2024**

December 2024

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Who we are

HM Crown Prosecution Service Inspectorate inspects prosecution services, providing evidence to make the prosecution process better and more accountable.

We have a statutory duty to inspect the work of the Crown Prosecution Service and Serious Fraud Office. By special arrangement, we also share our expertise with other prosecution services in the UK and overseas.

We are independent of the organisations we inspect, and our methods of gathering evidence and reporting are open and transparent. We do not judge or enforce; we inform prosecution services' strategies and activities by presenting evidence of good practice and issues to address. Independent inspections like these help to maintain trust in the prosecution process.

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1. Background

Introduction

1.1. According to the Office for National Statistics (ONS), one in seven people aged 16 and over in England and Wales has been a victim of stalking at least once, with women and younger people the most commonly affected¹. It is an offence that has a significant, deep and long-lasting impact on victims and how they live their lives. In its extreme form it can lead to violence or to victims fearing violence and can make them feel unsafe in their own homes, at work or at school.

1.2. Stalking is a strand of the government's mission to address violence against women and girls, with further proposals being considered to afford greater protection to victims by giving them the right to know the identity of their stalker at the earliest opportunity.

1.3. Given the impact of stalking behaviour on victims, it is imperative that cases are considered carefully and thoroughly to ensure that stalking offences are charged wherever the evidence supports such a charge.

Background

1.4. In 2022, the London Victims' Commissioner called for the Mayor's Office for Policing and Crime (MOPAC) to carry out research into the Metropolitan Police Service's (MPS) response to stalking victims in London. To address the Commissioner's request, MOPAC's Evidence and Insight team carried out a review of a sample of cases involving stalking offences. This review was published in 2024: The London Stalking Review 2024 – MOPAC Research². As well as the MOPAC report, the London Victims' Commissioner used the findings of the MOPAC Evidence and Insight team to publish The London Stalking Review 2024 – Reflections and Recommendations³.

1.5. Given our role as the independent inspectorate of the Crown Prosecution Service (CPS), and our ability to assess the quality of legal decision making, we decided to carry out a review of the cases from the London Stalking Review that were referred to the CPS to add further evidence to the existing reports. This report has been produced to be read in addition to the MOPAC Evidence and Insight team report and the London Victims' Commissioner's Reflections and Recommendations report. By examining the cases referred to the CPS by the Metropolitan Police, we hope to offer a more holistic view of the service being

¹ [‘I feel like I am living someone else’s life’: one in seven people a victim of stalking - Office for National Statistics](#)

² [E&I Stalking Deep Dive \(london.gov.uk\)](#)

³ [Victims' Commissioner | London City Hall](#)

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offered to stalking victims by the prosecution team. We have assessed the quality of the decisions to charge in those cases that were referred to the CPS and also comment on the quality of the files received from the police by the CPS.

MOPAC data

1.6. The Evidence and Insight team identified 10,436 stalking-related cases from the Metropolitan Police Service (MPS) Crime Recording and Information System (CRIS) from 1 July 2020 to 30 June 2021. These dates were selected to ensure cases had been finalised by the time of the review. Of those 10,436, a final random file sample of 376 cases was extracted for a deep coding exercise. The aim of the work by the MOPAC Evidence and Insight team was to enable a better understanding of stalking victims, perpetrators, the nature of stalking offences, stalking investigations and procedures and the drivers of decisions by the police to take no further action, and victim withdrawal.

1.7. Of the 376 cases examined by the MOPAC Evidence and Insight team, 41 were submitted by the police to the CPS for a charging decision⁴. Charges were authorised by the CPS in 33 of those cases. The London Victims' Commissioner's report stated that the "CPS also reclassified stalking offences at the point of charge in 25 out of the 33 charges, with only 10 resulting in an actual staking charge." The London Victims' Commissioner's report goes on to state that it was unclear if this was because of the quality of the police files or the decisions of the CPS. The decisions made by the CPS in the cases referred to in the reports were outside the scope of the MOPAC review. Given our role as the independent inspectorate of the CPS, and our ability to assess the quality of legal decision making, we decided to carry out a review of these cases.

Methodology

1.8. Our methodology was to examine the quality of the decisions on charge in each of the 41 cases that were submitted by the police to the CPS for a charging decision. To make a judgement on quality we assessed the referred cases using a question set that covers the different aspects prosecutors must consider when assessing a case at the pre-charge stage. The questions are included in Annex A.

1.9. Given that the cases that MOPAC identified were cases from 2020 to 2021, 27 of the 41 had been removed from the CPS case management system (CMS) in accordance with the CPS data deletion policy. As the cases were no

⁴ The MOPAC report states 42 cases were submitted however MPS have confirmed one of those files was a duplicate.

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longer accessible on CMS we were not able to assess the quality of the evidence or the corresponding decision in those cases.

1.10. We were therefore able to assess 14 cases. Of the 14 cases that remained accessible on CMS, three did not proceed to charge. In these three cases the CPS provided advice to the police about further reasonable lines of enquiry to be carried out before a charging decision could be made. When the police did not respond, the CPS followed agreed procedures and contacted the police requesting the outstanding material. No response was received from the police and as a result the CPS administratively finalised those cases.

1.11. This report sets out the findings of the 11 cases that the CPS charged and were still available on the CMS for examination.

1.12. To assess the quality of the legal decision making in the 11 cases, we compared police proposed charges with the charges the CPS authorised and considered whether the CPS made decisions that were Code compliant. We also reviewed the selection of charges based upon the evidence and the use of ancillary orders to protect victims.

1.13. We note that our findings are not representative of the position across the CPS in England and Wales. This is because all the cases reviewed by MOPAC were investigated by the Metropolitan police. Cases referred to the CPS were then dealt with by either CPS London South or London North depending on where the offence occurred.

1.14. Given the importance, priority and impact of stalking offences on victims and the wider public, we intend to carry out a thematic inspection of the CPS's handling of stalking offences in our 2025 inspection programme.

2. The law, guidance and policy

Legislation

2.1. Stalking has only been a criminal offence for 12 years. Before that, the first piece of legislation to deal with this type of criminal behaviour was the Protection from Harassment Act 1997 (PHA 1997) which introduced harassment as a specific offence. The Act created two offences, one of harassment⁵ triable only in the magistrates' court contrary to section 2 of the PHA 1997 ("section 2 harassment") and the second where the harassment is such that it puts a person in fear of violence⁶. This is triable either in the magistrates' court or the Crown Court contrary to section 4 of the PHA 1997 ("section 4 harassment").

2.2. In 2011, after much debate in the media as a result of some high-profile cases, the government launched a consultation to ask for views on how to protect victims of stalking more effectively. The consultation ran from November 2011 to February 2012 and, together with an Independent Parliamentary Inquiry into stalking in 2012, led to the new, specific offences of stalking. These were inserted into the PHA 1997.

2.3. Like harassment, two offences of stalking were created. The first, prohibits a course of conduct that amounts to stalking⁷ and can only be tried in the magistrates' court, contrary to section 2A PHA 1997 ("section 2A stalking"). The second created the more serious offence that prohibits a course of conduct that amounts to stalking and causes either the victim to fear, on at least two occasions, that violence will be used against them or causes the victim serious alarm or distress that has a substantial adverse effect on their usual day to day activities contrary to section 4A PHA 1997 ("section 4A stalking"). This offence can be tried either in the magistrates' court or the Crown Court.

2.4. The term stalking as a criminal act has not been given a clear definition but the Act does include a non-exhaustive list of acts or omissions associated with stalking. They include following a person, contacting, or attempting to contact a person by any means, loitering in any place (whether public or private) and watching or spying on a person. The Act does not detail what the circumstances are that differentiate these examples from harassment.

⁵ Section 1 of the PHA 1997 states that a person must not pursue a course of conduct which amounts to harassment of another and which he knows or ought to know amounts to harassment of the other. Such conduct could lead to a criminal penalty under section 2 PHA 1997.

⁶ Section 4 PHA 1997

⁷ Section 2A PHA 1997

2.5. The lack of a specific definition makes it challenging for police and prosecutors to be consistent when determining whether offending behaviour should be charged as harassment or stalking.

2.6. Restraining orders are a type of protective order available on conviction for any criminal offence⁸. Prosecutors often apply for restraining orders following the conviction or acquittal⁹ of defendants who have been charged with stalking or harassment offences. They are intended to protect the victim and prevent any future offending by the defendant that amounts to harassment or that will cause fear of violence. If a defendant breaches a restraining order without reasonable excuse, they will be guilty of a criminal offence¹⁰.

2.7. Restraining orders must be clearly drafted so that there is no doubt about what the defendant is prohibited from doing. Examples of prohibitions include preventing a defendant from entering or being near a victim's address and preventing a defendant from contacting a victim either directly or indirectly.

Legal guidance and policy

2.8. The Crown Prosecution Service (CPS) has legal guidance for prosecutors to assist them in making these difficult decisions and to ensure that a consistent approach is adopted across England and Wales.

2.9. Prosecutors should also be aware of the protocol on the appropriate handling of stalking offences between the CPS and the National Police Chiefs' Council¹¹. A key aspect of the protocol is that all police forces and all CPS Areas will appoint single points of contact (SPOCs) for stalking cases to facilitate effective and early consultation and to help understand and manage risk as well as to build strong cases.

2.10. CPS legal guidance is regularly reviewed and updated by policy advisors to ensure it remains relevant and reflects the current legislative position. With this in mind, when completing this file examination, we accessed the legal guidance for stalking and harassment that was available to prosecutors during 2021-2022, when the cases we examined were dealt with. We note that there

⁸ Sections 359-364 of the Sentencing Act 2020 contain the current provisions relating to restraining orders on conviction for convictions on or after 1 December 2020.

⁹ Restraining orders are also available on acquittal under s5A of the Protection from Harassment Act 1997.

¹⁰ For restraining orders imposed on conviction, the relevant offences are found in section 363(1) SA 2020 for orders made under section 361 SA 2020 and section 5(5) PHA 1997 for orders made under section 5(1) PHA 1997

¹¹ [Protocol on the appropriate handling of stalking offences between the Crown Prosecution Service & ACPO](#)

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were significant changes made to this guidance in April 2023 with the aim of providing prosecutors with further support in relation to charge selection.

3. Findings

Findings

Police proposed charges and CPS charges

3.1. The Director's Guidance on Charging¹² outlines the information required to be sent by the police to the Crown Prosecution Service (CPS) when a charging decision is sought. We considered police file quality against the requirements set out in the National File Standards (NFS). It sets out the material and information required at different stages of a case.

3.2. We assessed the quality of the police file submissions to the CPS in the cases we examined against the pre-charge requirements of the NFS. Of the 11 files, four contained all the material the police were required to send to the CPS for them to make a charging decision. In the remaining seven cases items that the prosecutor required to be able to make the decision were missing. The police did not send the stalking or harassment checklist in three cases, key evidence was missing in four cases, and unused material schedules and/or material had not been provided in three cases. The CPS must request the police to provide these items to be able to progress the case.

3.3. The police file submission should also include a view from the police of which charge(s) they think should be authorised. This was present in every case.

3.4. When the prosecutor makes a charging decision, they are required to indicate on the CPS case management system (CMS) whether the charge(s) proposed by the police has been accepted, substituted or rejected.

3.5. We reviewed the charge(s) proposed by the police to see how they compared to the charge(s) the CPS subsequently authorised. As part of our review we also assessed whether in our view the CPS charge(s) authorised were correct on the basis of the evidence supplied in the case. This is set out in the table below:

Police proposed charge	CPS authorised charge	HMCPsi assessment
1. Harassment S2 PHA 1997	Harassment S2 PHA 1997	Harassment S2 PHA 1997
2. Harassment putting people in fear of violence S4 PHA 1997	Harassment S2 PHA 1997	Stalking S4A PHA 1997

¹² [Director's Guidance on Charging, sixth edition, December 2020, incorporating the National File Standard | The Crown Prosecution Service](#)

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3. Harassment putting people in fear of violence S4 PHA 1997	Breach of Restraining Orders S363(1) and (2) SA 2020	Breach of Restraining Order S363(1) and (2) SA 2020
4. Racially aggravated intentional harassment, alarm or distress Section 28 Crime and Disorder Act 1998	Racially aggravated stalking involving fear of violence Section 28 Crime and Disorder Act 1998	Racially aggravated stalking involving fear of violence Section 28 Crime and Disorder Act 1998
5. Stalking S4A PHA 1997	Stalking S2A PHA 1997	Stalking S2A PHA 1997
6. Stalking S4A PHA 1997	Stalking S4A PHA 1997	Stalking S4A PHA 1997
7. Stalking S4A PHA 1997	Stalking S4A PHA 1997	Stalking S4A PHA 1997
8. Stalking S4A PHA 1997	Stalking S4A PHA 1997	Stalking S4A PHA 1997
9. Stalking S4A PHA 1997	Stalking S4A PHA 1997	Stalking S4A PHA 1997
10. Stalking S4A PHA 1997	Stalking S4A PHA 1997	Stalking S2A PHA 1997
11. Breach of Restraining Order S5(5) PHA 1997	Breach of Restraining Order S5(5) PHA 1997	Breach of Restraining Order S5(5) PHA 1997

3.6. Given the terms of reference for the Mayor's Office for Policing and Crime (MOPAC) review, we anticipated that all cases would have been referred to the CPS for consideration of charges for stalking offences, but this was not always the case. Six of the 11 cases were referred for consideration of charging for stalking offences, three for harassment offences, one for a racially aggravated public order offence and one for breach of a restraining order.

3.7. In nine of the 11 cases we agreed with the decision made by the CPS on charge. In one case we found evidence of a thinking approach where prosecutors were considering stalking offences where the police had not proposed them on the referral for a charging decision.

Cases where the CPS authorised charge for stalking offences

3.8. The CPS authorised charge for stalking offences in seven of the 11 cases, which is one more than requested in the original police referral.

3.9. In five of those seven cases, the CPS authorised charge for the more serious section 4A stalking offence (see paragraph 2.3) involving either fear of violence or where the impact has had a substantial effect on their usual day to day activities in accordance with the police referral. We agreed with those decisions in all but one case where we concluded the correct charge was a section 2A stalking offence (see paragraph 2.3) as there was insufficient evidence to prove the additional element required for the more serious offence.

3.10. In a sixth case, the police referred the case for consideration of the more serious section 4A offence of stalking. The CPS decision was to authorise charge for a section 2A stalking offence. We agreed with that decision.

3.11. In the seventh case the police proposed a racially aggravated public order charge. The CPS authorised charge for a racially aggravated stalking offence which we agreed was the most appropriate on the evidence submitted.

Cases where the CPS authorised charge for non-stalking offences

3.12. In four of the 11 cases the CPS authorised charge for non-stalking offences.

3.13. The first of those cases was referred by the police for CPS consideration of a charge of section 2 harassment. The CPS authorised charge for that offence and we agreed with the decision.

3.14. In another, the only case where there was a different view by the police, the CPS and us, a case was referred for consideration of a section 4 harassment offence. The CPS authorised charge for a section 2 harassment and our view was that it should have been charged as a section 4A stalking offence.

3.15. The third case was referred by police for consideration of a section 4 harassment offence. The CPS authorised charge for breach of a restraining order. We agreed.

3.16. The final case was referred by the police for consideration of a charge of breach of a restraining order. The CPS agreed with that, as did we.

Code Compliance

3.17. The Code for Crown Prosecutors (the Code)¹³ is a public document that sets out the general principles that prosecutors should follow when they make decisions on cases.

¹³ The Code for Crown Prosecutors; CPS; October 2018.
www.cps.gov.uk/publication/code-crown-prosecutors

3.18. Prosecutors must only start or continue a prosecution where the case has passed both stages of the Full Code Test: (i) the evidential stage; followed by (ii) the public interest stage.

3.19. The prosecutor must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against a suspect on each charge. That decision is based on their objective assessment of the evidence, including the impact of any defence and any information the suspect has put forward or on which they may rely. It means that an objective, impartial and reasonable jury, properly directed and acting in accordance with the law, is more likely than not to convict the accused on each charge alleged. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.

3.20. There are limited circumstances where if the Full Code Test is not met, the Threshold Test can be applied to charge a suspect. The prosecutor must be satisfied that the police can obtain further evidence in a reasonable period, that the seriousness of the case justifies the making of an immediate charging decision and that there are substantial grounds to object to granting bail.

3.21. Out of 11 cases reviewed, the Full Code Test was applied in seven cases, and the Threshold Test in the remaining four. We assessed that the CPS applied the correct test in all 11 cases.

Charge selection

3.22. The Code states that prosecutors should select charges which reflect the seriousness and extent of the offending, give the court adequate powers to sentence and impose appropriate post-conviction orders, and enable the case to be presented in a clear and simple way.

3.23. In nine of the 11 cases examined, prosecutors had selected the most appropriate charge for the main offence.

3.24. There were two cases where the CPS did not select the most appropriate charge. In one, the police proposed a charge of section 4 harassment while the CPS authorised a lesser charge of section 2 harassment. We found that the most appropriate charge should have been a section 4A stalking offence where the defendant pursued a sustained course of conduct against the victim over a significant period which caused serious alarm and distress and had a substantial adverse effect on her day-to-day activities.

The use of ancillary orders

3.25. There are a wide range of orders available to protect victims, witnesses and the public in general¹⁴. It is the duty of the prosecutor to remind the judge or magistrate of what powers they have in respect of each offence and to argue for the making of appropriate orders.

3.26. Restraining orders are a protective order available on conviction or acquittal for any criminal offence which are often applied for by prosecutors in cases of stalking or harassment. A restraining order on conviction can be made to protect a victim (or any other person) from behaviour which amounts to harassment, or which will cause fear of violence. A restraining order on acquittal can be made if the court considers it necessary to protect a person from harassment by the defendant even where the offence has not been proved.

3.27. At pre-charge, prosecutors should consider whether a restraining order should be applied for in the event of a conviction or an acquittal. The police should provide the victim's views on a restraining order having discussed the suitability of any suggested conditions with them. The CPS should have this information for the first hearing so that the court can deal appropriately with a defendant should they decide to plead guilty.

3.28. In this file examination we assessed whether the prosecution sought appropriate orders to protect the victim, witnesses and the public. We found that the CPS applied for the appropriate orders in nine of the cases examined.

Conclusions

3.29. We found that not all of the 11 cases we assessed had been referred to the CPS by the police for consideration of charging for stalking offences.

3.30. We found that the CPS applied the Code properly in all 11 cases and in most the charge selection was correct. This means that the right defendants were prosecuted for the right offences.

3.31. In most cases there was early consideration at the pre-charge stage of restraining orders; this should be a consideration in every case where a stalking or harassment charge is authorised.

3.32. Although not commented on in detail in this report given its focus on the pre-charge decision making as an addendum to the London Stalking Review reports, our assessment of the cases also considered victim issues. These

¹⁴ They include restraining orders, compensation, forfeiture of drugs, firearms and offensive weapons, disqualification from driving, exclusion orders, serious crime prevention orders and sexual harm prevention orders.

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included compliance with the victim personal statement scheme in which victims are able to share the impact of the offending on them at the sentence hearing. It also includes compliance with victim communication and liaison letters guidance that requires timely, good quality letters to be sent to victims when a charge is dropped or substantially altered, and compliance with the speaking to witnesses at court protocol (STWAC). Annex A sets out our findings in respect of these issues.

Annex A

File examination data

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Question	Answer	Total	%
Date of file submission from police to CPS	26/11/2020		
	21/12/2020		
	15/02/2021		
	18/02/2021		
	26/03/2021		
	22/04/2021		
	26/04/2021		
	31/07/2021		
	18/01/2022		
	31/01/2022		
	13/04/2022		
What were the proposed police charges?	s2 Harassment	1	9%
	s4 harassment	2	18%
	S4A stalking	6	55%
	Other	2	18%
Was the case outline and supervisor's comments consistent with the proposed charge(s)?	FM	10	91%
	NM	1	9%

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Did the police identify the case as DA?	Yes	8	73%
	No	1	9%
	NA	2	18%
Was the police file compliant with the National File Standard?	FM	4	36%
	NM	7	64%
Did the CPS apply the most appropriate Code test (Full Code Test or Threshold Test)?	Yes	11	100%
The most appropriate charges were selected on the information available to the prosecutor at the time	FM	6	55%
	PM	3	27%
	NM	2	18%
The prosecution complied with its obligations regarding VPS	FM	8	73%
	PM	3	27%
The prosecution sought appropriate orders to protect the victim, witnesses and the public	FM	8	73%
	PM	1	9%
	NM	2	18%
The prosecutor engaged with victims and witnesses where appropriate (includes STWAC).	FM	5	45%
	PM	4	36%
	NM	1	9%
	NA	1	9%

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There was a timely VCL when required	FM	3	27%
	PM	1	9%
	NM	1	9%
	NA	6	55%
The VCL was of a high standard	FM	1	9%
	PM	2	18%
	NM	2	18%
	NA	6	55%

Please note that as we round the percentages up or down as necessary, it can result in totals not being 100%.

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