

## **Proposed Stalking Protection (Scotland) Bill**

**A proposal for a Bill to increase protection for victims of stalking by giving police the power to apply for stalking protection orders on behalf of victims**

### The Consultation:

The proposal is to introduce Stalking Protection Orders (SPOs) in Scotland, and to give the police the power to apply for SPOs on behalf of victims. These SPOs will be broadly similar to the SPOs that are now available to the police to protect stalking victims in England and Wales. However, there will also be a few key differences, which are set out below alongside the detail of the proposal.

### The Scottish Women's Convention (SWC)

The Scottish Women's Convention (SWC) is funded to engage with women throughout Scotland in order that their views might influence public policy. The SWC uses the views of women to respond to a variety of Parliamentary, Governmental and organisational consultation papers at both a Scottish and UK level.

The Scottish Women's Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups. This submission provides the views of women and reflects their opinions and experiences in a number of key areas relevant to the issues around women's rights.

Which of the following best expresses your view of increasing protections for victims of stalking by giving police the power to apply for stalking protection orders on behalf of victims? Please explain the reasons for your response, including any advantages and/or disadvantages of the proposed Bill.

Fully supportive

Increasing protection by establishing specific protection orders for stalking is seen as not only a beneficial way of expediting some form of protection but also places it within a legal framework that allows women to feel their case is being taken seriously by the police with an early intervention approach.

Any increase in measures which seek to protect victims can be viewed as a constructive approach. Acting as an intermediary to criminal cases whilst investigations are ongoing provides some way forward in addressing systematic exploitation of women and their rights. Given that enactment of SPO's would be in themselves a criminal offence this can be seen as a major step forward in terms of the resolutions taken for victims.

Stalking not only limits a woman's agency and dictates another realm of gender inequality but also can be contextualised within other forms of VAWG. In addition to this, it also means that women are prevented from carrying out their full economic, social and political potential leading to a further confrontation of exacerbated gender inequality.

At present, it is often felt within the current framework that the lengthy and costly procedure within which a Non-Harassment Order can be brought gives little weight to the sheer burden victims are placed under, leading them to undue stress with severe implications for mental health. With ongoing cuts to the legal aid system, pursuing civil NHO's has always been unacceptable in the pursuit of justice with the weight of balance shifted against women on limited incomes, meaning once again that those at the lower end of the spectrum are further at a disadvantage.

Stalking or harassment not only limits a woman's access to both personal and public spaces, but also subjugates and bears no mind for the individual's autonomy, mental health or wellbeing. The trauma that women are subjected to as a result of this type of behaviour routinely goes unreported leading to feelings of helplessness, with this only increasing the longer the problem goes on.

Failure to work on an early interventionist approach which can provide the utmost protectionist channels for women within a legislative context negates not only

acknowledgement of the abuse and harassment women suffer at the hands of perpetrators, but also fails to acknowledge this at a wider societal level. Formulating frameworks which are specifically designed to specify the impact that this abuse can have on victims at the centre and undermine perpetrators is crucial.

[Which of the following best expresses your view of limiting Stalking Protection Orders to a maximum duration of two years, with the possibility of renewal by the court?](#)

#### Unsure

The biggest worry with placing a time limit within statutory regulations is that this may not take into account the toll that this can place on a female who has been the victim of such a situation if having to opt for a renewal. Given that a major burden placed on victims is the constant wondering of when a perpetrator may strike next and the significant toll this has on mental health, many women pointed out that placing a maximum time limit leaves victims with severe anxiety.

Additionally, at present, many women have discussed giving up employment or further education as a result of being stalked/harassed. Placing a maximum duration may act as a “bandage” with them simply giving this up further on down the line due to the fear that has been placed on them.

[Which of the following best expresses your view of making the breach of a Stalking Protection Order a criminal offence, with a maximum sentence of up to 6 months imprisonment and/or a fine on summary conviction, and up to 5 years imprisonment and/or a fine for conviction on indictment?](#)

#### Neutral

Given that breach of an SPO is a criminal offence, many women have noted that there is no reason why this should not be the same as the maximum applied currently in Scotland for stalking. However, it is also noted that summary conviction for offences of stalking carry a greater sentence within Scotland under the Criminal Justice and Licencing (Scotland) Act 2010 of 12 months, rather than the 6 proposed here for breaching an Order.

Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

(a) Government and the public sector, including the police and courts

Some increase in cost

Whilst additional monetary costs may be placed on the likes of the police and courts, this is thought to be balanced by the social and gender implications contained within the Proposed Bill as an advancement of victim's rights. It must be made clear that the proposed SPO's, however, do not undermine or replace criminal convictions but is in fact there to help proceedings through greater protection of the victim and as a means in itself of securing a criminal offence.

(b) Businesses

Broadly cost-neutral

Potentially, one of the most potent problems within application of this –and all gendered legislation- is the way in which it is replicated and appropriated within the workplace. This is particularly troubling where employers make little to no provisions for victims of stalking or harassment, particularly in more precarious contracted jobs where work often focuses on unsociable hours and where an individual's safety may be more at risk. Any proposals must seek to drive awareness within businesses about the safety of their employees as paramount.

(c) Individuals

Significant reduction in cost

A further caveat is the sheer stress placed at present on women for whom income inequality remains a pervasive problem. Not only do women at the lower end of the income scale not have the means to afford the likes of civil orders such as NHO's at present, they also cannot afford to leave employment due to low economic means leading to further exploitation and mental ill health as a result of their trauma.

What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation?

### Positive

Structuring a body of legislation which will allow protective orders in place from the offset is seen as a rational method of providing one way forward. It is also beneficial to exonerate victims in the arduous and stressful process of applying for such a proceeding.

### Conclusion:

Establishing robust legislative protocols which encapsulates the many forms that violence against women may take is fundamental to progressing women's equality. Failure to act and put in place robust and effective frameworks that not only seek to prevent this occurring but also ensure successful processes for the victim are in place severely impedes women's equality at all levels.

For further information, please contact

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The Scottish Women's Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups. This submission paper provides the views of women and reflects their opinions and experiences in a number of key areas relevant to employment and the National Living Wage.

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