

PPS Policy for Prosecuting Cases of Stalking

Summary of Consultation Responses

The Public Prosecution Service's consultation on its Policy for Prosecuting Cases of Stalking was issued on 10 June 2024 for a period of 12 weeks. The aim of the consultation was to seek a wide range of views to inform the development of the Policy.

The final closing date was **6 September 2024**.

Responses were received from the following:

Responses (in alphabetical order)	Page
ASSIST NI	3
Belfast Area Domestic and Sexual Violence and Abuse Partnership	10
Commissioner Designate for Victims of Crime for NI	14
Criminal Justice Policy Legislation Division (Department of Justice)	19
J.C. (Individual)	20
NEXUS	22
NSPCC	37
S.M. (Individual)	40
South-Eastern Area Domestic and Sexual Violence Partnership	45
Victim Support NI	49
Women's Aid Federation NI	58
Women's Platform	81
Women's Policy Group NI	91

This document provides a summary of the main issues raised in response to the consultation. All comments have been carefully considered and feedback provided as required.

The following questions (8 in total) were asked as part of the consultation:

- Q1. At Chapter 2, is there sufficient information in respect of the legal framework, and in particular the provisions under the Protection from Stalking Act (NI) 2022, including the new offences of stalking (see 2.2) and threatening or abusive behaviour (see 2.3)?
- Q2. Chapter 3 sets out how we take decisions in stalking cases. In your view, does this explain the key issues considered by the prosecutor?
- Q3. Chapter 4 provides an overview of how we deal with cases at court, including the sentencing stage. Is all of this information of value? Is any additional information required regarding the PPS's approach?
- Q4. Chapter 5 provides an overview of victim and witness issues and the services and other support available. Is all of this information of value? Is any additional information required regarding victim and witness issues?
- Q5. Annexes A, B and C of the policy provide general background information in respect of stalking behaviours, the impact of stalking and the types of stalkers. Is this useful?
- Q6. Thinking about the document as a whole, is the information clear and easy to understand? For example, is there any complex legal language or jargon which needs to be amended or explained?
- Q7. The overall purpose of this policy is to provide guidance on the general principles, commitments and associated working practices, and to explain the standards of service expected from the PPS in cases of stalking. In your view, does the guidance deliver this? (If not, please explain the reasons why).
- Q8. Are there any other comments you would like to make about this policy?

Thank you to all the organisations and individuals who took the time to respond to this consultation. Your feedback is much appreciated.

ASSIST NI

Comment	PPS Response
Question 1	
Additional explanation about retrospective behaviours/actions may be required at 2.2.1.	Footnote 4 has been added to clarify the position, as follows: <i>Any stalking behaviour committed before 27 April 2022 may be prosecuted under existing criminal offences (e.g. harassment), where the Test for Prosecution is met.</i>
Good repetition of the FOUR principle.	Noted with thanks.
Good use of case law which helps provide real examples to victims/practitioners.	Noted with thanks.
The tone of 2.2.9 still feels like we are putting the onus on the victim to have undertaken some/a number of these actions before the offence will be considered/charged/prosecuted. It might feel less like a pre-requisite if it was worded "A victim may have given consideration to" Rather than "Has done" Recognising that if they have it may be additional evidence to the impact but that it is not the victims responsibility to mitigate the perpetrators behaviours.	As stated at para 2.2.10, the absence of factors such as those listed does not mean that stalking is not taking place
2.2.11 The victim should be reassured here that the 'reasonable person test' includes the context of the behaviours, not the behaviours represented in isolation.	Para 2.2.11 has been amended.
It is not helpful at 2.3 to short hand 'threatening and abusive behaviour' to TAB. It moves the language of the document to a legalistic tone rather than generally accessible to all. Also, given some of the explanations of the legal	Noted.

<p>terms talk about person 'A' and person 'B' etc in other sections of the policy, this abbreviation may also lead to unnecessary confusion. It would be our position to use the full wording. It helps in explanation.</p>	
<p>At 2.4.11 explain what an 'either way offence' is, or reword to: "A breach of a SPO may be heard in either the Magistrates' or Crown Court".</p>	<p>Section 2.4.11 has been amended as follows:</p> <p><i>This offence can be prosecuted in the Magistrates' Court where the maximum penalty, upon conviction, is 6 months' imprisonment or a fine or both. This offence can also be prosecuted in the Crown Court, where it carries a term of imprisonment not exceeding 5 years or a fine or both.</i></p>
<p>Between 2.5.10 – 13 could it be made clear that a report/charge/conviction for the Threatening and Abusive Behaviour offence, Harassment or presence of a SPO are not prerequisites to prosecution for a Stalking offence.</p>	<p>Noted.</p>

<p>Question 2</p>	
<p>Very content with Chapter 3, it does set out the considerations of a prosecutor.</p>	<p>Noted with thanks.</p>
<p>At 3.9.2 it may be helpful to again reference here where in the Policy support can be accessed by victims if they have concerns about pursuing a criminal justice outcome.</p>	<p>Noted.</p>

I think the last sentence at 3.9.5 sounds a little passive aggressive. The very necessary and important point regarding victims views being relevant but not exclusive is already made in the passage – this just stands to further relinquish the control of proceedings from victims. The point is already made and I don't think the last sentence is necessarily helpful.	Noted and amended.
At 3.10.2 remove the word 'simply' ... it may be perceived to be minimising or condescending to a victim audience.	This has been amended.
At 3.10.3 remove the first sentence? It confuses the rest of the paragraph and doesn't add anything not conveyed in the remaining passage.	The first sentence removed (The giving of reasons for not prosecuting is an important and sometimes complex issue) has been removed.
At 3.10.4 could then read: "Further information is available in the Code for Prosecutors".	Noted and amended.

Question 3	
It would be our view that this is a very helpful chapter. Its clear and succinct and sets out the passage of process for victims in a very accessible way.	Noted with thanks.
Particularly welcomed is the acceptability of pleas section.	Noted with thanks.
Minor note – at 4.2.5 amend the last sentence to "... challenge the victim about their account" to ensure inclusivity of non-binary identifying victims.	Noted and amended.
Again an opportunity also in this section to signpost to support or advocacy services for victims who may benefit from advocacy in the court setting?	Noted.

<p>At 4.5 it may be useful to indicate this is a separate statement to the statement of facts about the offence being tried, and that this is a statement intended to ensure the victim has an opportunity to express to the court how the offence has impacted them more broadly. To be seen, heard and represented in the court.</p>	<p>Noted.</p>
<p>Tackling delay (4.7) - this section is welcomed and acknowledged the realities of the process which is both informative and respectful to the victims encountering harms. It demonstrates integrity and fallibility from PPS and is demonstrable of significantly improved victim centricity.</p>	<p>Noted with thanks.</p>
<p>At para 3.5.2 could reference use of other agencies here also, to provide independent advocacy direct to victims (for example ASSIST NI) to engage victims and witnesses before compelling them to court.</p>	<p>Noted.</p>

<p>Question 4</p>	
<p>Yes, again it is our view that this section is necessary and valuable.</p>	<p>Noted with thanks.</p>
<p>Whilst we recognise that in practice significant challenges still remain for victims engaging with the courts in attaining Special Measures, it is important that the policy sets out what ought to be attainable and that the PPS / Courts welcome the accountability of working towards that standard and being held against it.</p>	<p>Work is ongoing internally within PPS to improve our delivery in respect of Special Measures.</p> <p>A link to the PPS animation on special measures has been added at para 5.1.1.</p>

Question 5	
Annex A - whilst it implies it, perhaps this section could benefit from stressing the list is not exhaustive and the PPS is committed to considering all nuanced forms of behaviours relevant to the specific context as experienced by the victim?	This has been amended.
Annex B is useful and demonstrates to victims an acknowledgement of PPS of the wide reaching impacts of Stalking, again perhaps stress that it's not exhaustive.	This has been amended.
Minor note second to last bullet point under effects of finances – should read “Cost involved in repairing property damage...”, not “preparing property damage.”	Wording has been amended.
Whilst ASSIST NI is sighted in the main Policy, we would be grateful to be included in the signposting section at the conclusion of page 52 also.	This reference has been added.

Question 6	
Overall the policy is clear, the language is accessible and demonstrates victim centricity. Where areas ought, in our view to be reconsidered, we have indicated specifically above or below.	Noted with thanks.

Question 7	
The Policy includes passages which demonstrate the PPS's commitment to justice, and not just disposals/convictions which is truly welcomed.	Noted with thanks.

<p>We recognise that this has long been the case but is hard to communicate and the tone of the Policy definitely reflects the learning and engagement from PPS in the importance of communicating this with victims.</p>	<p>Noted with thanks.</p>
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<p>Question 8</p>	
<p>Points to consider:</p> <p>In trying to retain a victim centric/led and none blaming tone, you may wish to rephrase:</p> <p>Para 1.1.6 "...victims of it should seek help". Implies blame/onus on an already overwhelmed/traumatised victim. Perhaps this could read: "Stalking is a serious crime and its is important that pathways to support are accessible and available to all victims." (Or similar).</p>	<p>Noted and amended.</p>
<p>1.2.1 You first cite the Suzy Lamplugh Trust. This is an opportunity to signpost victims to this organisation with a smart/web link.</p>	<p>A link has now been added.</p>
<p>1.2.2 You should include one or more of the remote contact / cyber enabled stalking behaviours here also to demonstrate from the outset that a physically intimidating act is not required for the offence to be made out. The most prevalent form of stalking in almost all cases, without exception, is the pervasive use of persistent, unwanted text, messaging and online monitoring. It would be our advice that this is included in this initial descriptive of some behaviours (acknowledging that more are available in the annex).</p>	<p>Para (now 1.3.3) has been amended as follows:</p> <p>Some of the most common types of stalking <i>behaviours include stalkers repeatedly contacting the victim be phone, text, email or social media</i>; turning up at the victim's home or work and watching, spying on or following a victim.</p>

<p>At 1.2.6 re-phrase from: “It is important to recognise that stalking behaviours can often appear ‘harmless’ or unremarkable”. To “It is important to recognise that victims may feel that, to others, stalking behaviours may appear unremarkable. PPS recognise and understand the pervasive nature of stalking behaviours and will consider those behaviours in the specific circumstances and context as presented by the victim” (or similar).</p>	<p>Noted and amended.</p>
<p>At 1.2.8 there is an opportunity here to further acknowledge the additional vulnerabilities in the intersectionality of these categories also?</p>	<p>Para (now 1.3.9) has been amended to include:</p> <p><i>Victims come from a wide range of backgrounds and stalking can happen to anyone. The PPS recognises that each victim’s experience of stalking is different and may be impacted by how it intersects with inequalities they may face in relation to aspects such as sex, age, disability, gender identity, race, ethnicity, religion / belief or class.</i></p>

Belfast Area Domestic and Sexual Violence and Abuse Partnership

Comment	PPS Response
Question 1	
<p>We believe there is sufficient information in respect of the legal framework for both the offence of stalking and threatening and abusive behaviours and believe that the guidance will help both victims and professionals to better understand and distinguish between these offences. We welcome the consideration and safeguards offered to victims to give evidence given the level of fear and trauma experienced throughout the criminal justice journey and welcome the prohibitions and requirements which can be placed on perpetrators.</p>	<p>Noted with thanks.</p>
<p>In terms of the decision to take up the stalking charge rather than a domestic abuse charge in cases where there were no previously reported incidents of abusive behaviour during the relationship, we would support Women's Aid's recommendation that charges sought against alleged perpetrators have higher sentencing potential to encourage reporting and increase confidence for victims that the court will respond adequately.</p>	<p>Noted.</p>
<p>Following statistics highlighted by Women's Aid, we would share concerns around the level of stalking cases being progressed through the criminal court in comparison to harassment cases. It is crucial that the correct charges are being applied in cases of stalking, proportionate and reflective of the levels of fear and distress caused by stalking.</p>	<p>Noted.</p> <p>PPS and PSNI are currently undertaking a joint quality assurance exercise focusing on harassment cases to ensure that the stalking offence is being used in appropriate cases.</p>

Question 2

We believe that the policy sets out very clearly how decisions are taken by the PPS and hope that this is applied at an operational level, in each individual case.

We appreciate that decisions taken by the PPS must remain independent and free of any prejudice in the interest of fairness within the criminal justice system. We emphasise the importance of adequate, ongoing, trauma-informed training on stalking and stalking within the context of domestic abuse.

Noted.

We support Women's Aid's call for improved communication with victims, at every step of the way, to increase transparency and understanding of processes and decision making and to ensure victims are empowered and equipped adequately with the information, protections and support they may require and to mitigate and reduce any stress, fear and uncertainty throughout the case and ensure they are less likely to disengage with the process altogether.

Noted.

Question 3

Again, we would like to reinforce the importance for adequate, timely and meaningful communication with victims especially in relation to the alleged perpetrator's conditions and whereabouts. Failure to do so will only amplify the fear and distress caused to victims and increase risk to their safety and detriment to their wellbeing.

Noted.

Question 4

Yes we consider this information crucial to ensure that all victims and witnesses are aware of the support avenues available to them and welcome the automatic application of special measures to be granted at the judge's discretion. Again, training for the judiciary is paramount. Emphasis must be made on raising awareness of these support mechanisms to ensure victims are fully informed to make decisions.

Noted.

Question 5

Yes, we consider this to be very useful for both victims and professionals, to gain more of an understanding of stalking behaviours, the impact and types of stalkers and to help dispel some common myths and misconceptions that some may have. We would welcome more proactive public awareness around these.

Noted.

Question 6

We consider the document as whole to be educative and informative. For accessibility purposes, we would suggest consideration of an "easy-read," more digestible guide.

Noted with thanks.

Provision of more accessible information is currently being considered, for example by way of supplementary guidance, videos / animations etc.

Question 7

We believe that the guidance generally achieves this. We would support the call for criminal justice partners to establish a register for prolific offenders of stalking to be managed under the Public Protection Arrangements similarly to violent and sexual offenders, whereby risk management mechanisms are put in place and monitored accordingly.

Noted. A register of this kind would be a matter for the Department of Justice.

Commissioner Designate for Victims of Crime NI

Comment	PPS Response
Question 1	
<p>The new offence of stalking (2.2) provides details of the Act including what conduct constitutes stalking. Para 2.2.2 explains how an offence of stalking could be understood through describing actions of a potential perpetrator. Given the intended audience for this policy document is for the general public, including victims and witnesses, the Commissioner Designate believes that this explanation could be simplified. If that is not possible within this document, she would welcome an easy-read version that simplifies many of the legal definitions. Many victims who have met with the Commissioner Designate have commented that often they are overwhelmed when faced with policy documents from statutory criminal justice agencies, given they have often been victims of crime (or relatives of victims) and may be experiencing trauma. Given the new Act is also applicable to under 18s, it may also be helpful to consider the creation of a child-friendly version to complement the policy.</p>	<p>Noted.</p> <p>Provision of more accessible information is currently being considered, for example by way of supplementary guidance, videos / animations etc.</p>
<p>Conduct</p> <p>Para 2.2.4 clearly states that the list at 2.2.3 related to conduct is not exhaustive. This is very helpful, but it would also be helpful if this could be explained where other descriptors are listed, if applicable. Again, this is reduce confusion for people who may already be feeling overwhelmed as victims of crime and also responding to a trauma. The description of patterns of behaviour (fixated, obsessive, unwanted</p>	<p>Noted.</p>

<p>and repeated - F.O.U.R) that replicates the PSNI message about stalking is also very helpful and should act as an aide memoir for victims to understand how the PPS categorises stalking and behaviour that is intrusive.</p> <p>However, the Commissioner Designate does have concerns in how the PSNI identifies and records behaviour that is repeated. Concerns have been with raised by victims with the Commissioner Designate about how the PSNI record repeated offences such as stalking. Whilst she has been given assurances that this type of information is captured by NICHE and therefore will be flagged, victims of stalking who have met with the Commissioner Designate have described a different experience.</p>	
<p>Behaviour outside the UK The Commissioner Designate has met with victims of stalking who live in the border counties in Northern Ireland and this clarity is welcomed. It may be helpful if there was additional information on how the offence would be dealt with if stalking is committed in Northern Ireland but the perpetrator lives outside of the UK (i.e. the Republic of Ireland).</p>	<p>Further information has been included at paragraphs 2.2.15 and 2.2.16.</p>
<p>Statutory defence to stalking This explanation is welcomed but again given the intended audience is the general public and specifically victims of crime, the Commissioner Designate would welcome a simplified description.</p>	<p>Noted. The provision of supplementary guidance will be considered.</p>
<p>Threatening and Abusive Behaviour This section of the policy is helpful and describes how and in what context behaviour can be threatening and</p>	<p>Noted.</p>

<p>abusive. The Commissioner Designate would welcome a more simplistic description for section 2.3.10 on the statutory defence to TAB, for ease of understanding for the intended audience of the policy.</p>	
<p>Stalking Protection Orders The explanation of Stalking Protection Orders (SPOs) is clear, concise and helpful.</p>	<p>Noted with thanks.</p>

<p>Question 2</p>	
<p>This chapter sets out how prosecutors take decisions clearly, however the Commissioner Designate encourages the PPS to be aware to the potential broader pattern of abuse which may be indicative of a stalking case even if the initial police investigation was not focused on this.</p>	<p>Noted.</p>

<p>Question 3</p>	
<p>The Commissioner Designate believes the information that provides an overview of how the PPS deals with cases at court, including the sentencing stage is helpful and of value.</p>	<p>Noted with thanks.</p>

<p>Question 4</p>	
<p>The Commissioner Designate would welcome additional information on interpreter provision. The PPS should outline what interpreter/translation service will be in place for victims where English isn't their first language before the actual court case takes place, e.g.</p>	<p>Noted.</p> <p>Para 5.3.2 now reads as follows:</p> <p><i>If a victim or witness cannot understand English, they have access to free translation</i></p>

communication from the Victim and Witness Care Unit.	<i>or interpretation at the key stages of their case, if such facilities have been requested.</i>
Section 5.6 states that the ASSIST service is accessible to victims of both domestic and sexual abuse, regardless of the level of risk posed to them. The Commissioner Designate advised the PPS to check this description of ASSIST with DoJ or ASSIST as this may not still be the case, given current funding pressures.	This point has been confirmed with ASSIST NI.

Question 5	
These annexes are helpful but please note the comment in the response to Q1.	Please see response to Q1.

Question 7	
The draft policy document does provide guidance on the general principles, commitments and associated working practices, and to explain the standards of service expected from the PPS in cases of stalking. Please see the response to Q1 for any comments or queries in relation to language/understanding.	Please see response to Q1.

Question 8	
The Commissioner Designate would like to see a commitment in the policy document for prosecutors to work collaboratively with police to identify and manage risks posed by the suspect. This should be informed by risk assessment which prosecutors should be aware of when court is considering bail conditions, considering Stalking Protection Orders etc.	PPS and PSNI will be developing a joint Service Level Agreement for the investigation, management and prosecution of case involving stalking. This SLA will outline the key responsibilities for police and prosecutors when dealing with cases involving stalking including risk assessments and Stalking Protection Orders.

<p>Also, it may be helpful to note in section 1.2 of the document that stalkers can keep their identities hidden, so victims may not always know who their stalker actually is when reporting to the police.</p>	<p>Noted.</p> <p>Clarification has been added (see 1.3.2), as follows:</p> <p><i>Stalking can be carried out by someone you know or a stranger. In some cases, victims of stalking will not know the identity of their stalker. This can be even more distressing for victims.</i></p>
<p>The Commissioner Designate also encourage the PPS to capture data relating to the stalking offence and in particular to record the reasons for victim withdrawal, as well as the instances when the PPS agree a change for charge for a plea and the reasons why this was agreed.</p>	<p>We are currently working with the Department of Justice and the PSNI with a view to improving information in respect of victim attrition.</p>

Criminal Justice Policy Legislation Division (Department of Justice)

Comment	PPS Response
Consultation on PPS Stalking policy	
At para 2.1.1 link to the Protection from Stalking Act lands on 'page not found'. Suggest inserting link below Protection from Stalking Act (Northern Ireland) 2022 (legislation.gov.uk)	A new link has been added.
Para 2.2.13, suggest inserting "be" before "determined" in the last sentence	Noted and amended.
Para 2.4.7, suggest that it should read 'Sign on at police station'	Noted.
Paragraph 2.4.9, link lands on Stalking Offence Statutory Guidance – should be a link to Stalking Protection Order Statutory Guidance.	A new link has been added.
Page 22, suggest amending heading to 'Threatening or abusive behaviour'.	The heading has been amended.
Annex B - Effects on finances – suggest "repairing property damage" – text reads preparing property damage.	Noted and amended.
Page 48 - The Predatory Stalker – there is a typo in the third line down – suggest removing '26'	Noted and amended.

J.C. (Individual Response)

Comment	PPS Response
Question 1	
Men need to be named not as an also ran. Always I see this and it is harmful	Noted.

Question 2	
Does the prosecutor see the impact on a man as the same as on a woman. What about if a man is stalked by a woman?	Paras 1.3.9 and 1.3.11 recognise that stalking can happen to anyone and that anyone can be a perpetrator. This policy applies to all victims.

Question 3	
The information was very good and useful.	Noted with thanks.

Question 4	
It is very frightening to see the person who has caused you so much upset and pain. I believe they get something out of it. Really we shouldn't have to be seen or in the same building as them or their family and friends. Those people have often been their flying monkeys and they cause me fear too.	Information on the support available to victims and witnesses to give their evidence, including Special Measures, is included at Chapter 5 of the policy.

Question 5	
It does but lots of stalkers hide behind mental health. But mental health isn't a reason why people stalk. Be careful you	Noted.

aren't giving them even more excuses here.	
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Question 6	
It is good I think	Noted with thanks.

Question 7	
It is good but only good if women are treated as equally capable of causing extreme fear and anxiety. It is good if men are treated as equal victims to women. Men are not seen as victims here and I don't know if this helps to highlight that properly if I'm being honest.	Noted. This policy applies equally to all victims regardless of gender.

Question 8	
Please consider speaking about men being victims and women and men being perpetrators	Noted. Whilst recognising that women and girls are statistically more likely to be victims of this crime, this policy applies equally to all victims regardless of gender identity.

NEXUS

Comment

PPS Response

Question 1

Regarding the offence of threatening or abusive behaviour (TAB), this policy is clear on the legal framework for establishing a case of threatening or abusive behaviour as well as the statutory defence of TAB.

Noted with thanks.

Section 2.4 is detailed in its explanation of Stalking Protection Orders, from the application stage to examples of prohibition, to how children and young people can be protected by Orders and what can happen if an Order has been breached.

Noted with thanks.

We welcome Section 2.5's explanation of overlap between stalking and TAB with other existing criminal offences such as domestic abuse, harassment, and communication offences and how prosecutors will make a decision on how and what to charge.

Noted with thanks.

Question 2

In Chapter 3, we require elaboration on the following:

How does the PPS measure how juries are directed in accordance with the law?

Jury directions are a matter for the Crown Court Judge who must act in accordance with the Bench Book.

In applying the Evidential Test, are prosecutors aware of the biological effects of trauma on reporting and giving statements, and the possibility of a victim's account of the offence varying due to re-traumatisation, repressed memories, and fear?

PPS prosecutors have received trauma informed training delivered by WAFNI. PPS are currently working on updating this training with the support of the Safeguarding Board for NI (SBNI).

Regarding the Evidential Test, how is the evidence assessed? What are the standards for evidential quality?	Further information on the Evidential Test is set out in the Code for Prosecutors. A link to the Code is included within this Policy.
The guidance needs to elaborate on what is meant by “interest of justice” outside of trauma-informed practise in relation to the Test for Prosecution.	Noted.
In relation to the Public Interest Test, the guidance would benefit from the inclusion of examples of when the public interest goes against prosecution to illustrate this point.	Further information on the Public Interest Test is set out in the Code for Prosecutors. A link to the Code is included within this Policy.
When decisions to not prosecute are taken, how and when does the PPS communicate the decision to victims?	This information is covered at section 3.10 of the Policy.
How are cases that do not proceed to prosecution recorded? Is there detail to inform whether it is an evidentiary issue that needs to be addressed by the PSNI, etc?	PPS record data on prosecutorial decisions and the reasons for no prosecution.
Is the decision to not pursue prosecution made by a single prosecutor? How is this reviewed?	Decisions are taken by a prosecutor who is allocated the case. Information on the review process is provided at section 3.11.
For alternatives to prosecution, is there consideration given to the potential re-traumatisation of victims who must go through the disclosure process to explore alternatives?	This information is included at section 3.7 of the Policy.
In cases of diversionary disposals, are there further examples of when a diversionary disposal is recommended? Further, what weight is given to the opinions of the victim and their families?	The PPS Guidelines for Diversion provide further information on the use of diversionary disposals. A link to the Guidelines has been included at para 3.7.5.
Regarding MARACs, is relevant information supplied in order to support	The PPS is not involved in the MARAC (Multi-Agency Risk Assessment

<p>decision making? We note that MARACs should not be heavily relied upon as these are only enacted in the most serious cases of domestic abuse. Northern Ireland does not have MATAC, which has broader remit with lower levels of domestic abuse cases (e.g. when behaviours are becoming problematic) and stalking is often one such behaviour as it often poses no or lower levels of threat to physical safety. We also note that often there isn't a correlation between stalking and domestic abuse. Victims routinely do not have any form of intimate/personal relationship with the perpetrator.</p>	<p>Conferences) process. Para 3.8.4 is provided for information purposes only.</p>
<p>Does the PPS collect data on retractions and withdrawals from prosecution? This would aid the development of victim-centred, trauma-informed reforms to the criminal justice system and better support victims who choose to go through the court process.</p>	<p>We are currently working with the Department of Justice and the PSNI with a view to improving information in respect of victim attrition.</p>
<p>In the case of withdrawals or retractions, it is important to consider the unique situation in Northern Ireland with paramilitary intimidation of victims and witnesses.</p>	<p>Please see above.</p>
<p>What support is offered to victims and families in the case where intimidation is found to be present?</p>	<p>Information has been included at para 3.9.9.</p>
<p>What specifically defines a vulnerable victim or witness?</p>	<p>This information is available in our Victim and Witness Policy and on the PPS website. A link to the Victim and Witness Policy is available at para 3.9.3.</p>
<p>What is being done by the PPS and wider Justice system to address concerns that result in withdrawal from prosecution?</p>	<p>The process prosecutors will follow when a victim has withdrawn, is included at section 3.9.</p>

<p>Does the PPS employ other methods besides sending letters to victims in the case of no prosecution? Is the victim's preference for communication discussed in the very beginning of a case?</p>	<p>Victims are asked for their preferred means of contact by the Victim and Witness Care Unit although PPS decisions are normally notified in writing.</p> <p>Victims are also entitled to request a meeting to discuss the decision. This process is outlined in the Code for Prosecutors. A link to the Code has been included at para 3.10.4.</p>
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<p>Question 3</p>	
<p>We agree with para 4.1.2 that “The prosecutor's primary concern should be the safety of the victim and any children or other dependants” and Point 4.1.4 that “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”. We would like some further specification on the weight of the victims' views in this case and what specifically is meant by the “acceptability of pleas”. Chapter 4 sets out what happens when a case is listed for trial, including the effects on victims and witnesses' mental health and the importance of ensuring prosecutors “have the right skills to prosecute stalking cases effectively, including the ability to deal sensitively with victims and witnesses”. We would recommend a commitment to a trauma-informed approach for prosecutors who work with victims and witnesses of stalking and abusive and threatening behaviour, as we know that many victims and witnesses experience re-traumatisation in the criminal justice process.</p>	<p>Noted.</p> <p>Our ongoing commitment to trauma informed practice is set out in section 1.5.</p>

<p>In Section 4.2.3, the Guidance states that “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”, we would advocate for accountability measures to be implemented when a prosecutor has not informed the victim and/or witness in a timely manner, or in an appropriate setting (i.e. phone call, time of day, etc). In the same point, the guidance says that “They [the prosecutor] will also try to speak to victims and witnesses before they give evidence and try to put those who may be nervous at ease”. We would recommend this guidance reflect the duty of the prosecution to keep victims and witnesses at the forefront of their work, so that the above statement can be amended to “They [the prosecutor] will speak or make every effort to speak to victims and witnesses before they give evidence and try to put those who may be nervous at ease”. We would also advocate for the language to be updated in Section 4.3.2 under Acceptability of Pleas with “When considering whether to accept a plea to alternative charges, the prosecutor must discuss the situation with the victim”.</p>	<p>Noted.</p>
<p>It is important that the guidance stated that the prosecution will make every effort to make the process of giving evidence as easy as possible, but that ultimately it is a matter for the Judge to ensure that the trial is conducted fairly. It would be useful, however, to include here some more detail on how the prosecution can make the case that the victim and/or witness is being treated unfairly.</p>	<p>Noted.</p>

<p>The guidance includes a useful explanation of ancillary orders and some common examples in cases of stalking. The guidance is also clear on Victim Personal Statements - what they are, when they are used, and what can be included.</p>	<p>Noted with thanks.</p>
<p>Section 4.6 details the appeals process and, however we would recommend that more detail is included on how the VWCU case officer will be in touch with the victim- for example, via telephone (with confirmation that the victim is available to speak), by post, or by an in-person or online meeting. It is important that these details are available to ensure transparency in the process and provide sufficient detail so that all victims and witnesses are aware of their choices. We would also advocate for the inclusion of guidance on how the PPS will protect victims from vexatious appeals meant to scare or intimidate the victim.</p>	<p>Noted.</p> <p>This information is included at section 1.4.3.</p>
<p>Section 4.7 discusses avoidable delay, and it is welcomed that the PPS have included why some cases might be delayed and have assured that the prosecution will make every effort to keep the victim updated. However, we would recommend further detail be included on the impact of delay on victims, which is briefly mentioned in point 4.7.1 but is not outlined for prosecutors. To put this in context:</p> <ul style="list-style-type: none"> - The Victims of Crime Commissioner Designate has said that “Delays in the criminal justice system are leaving victims of crime in Northern Ireland waiting years for justice” and that “ [t]he impact of that [delays], it increases the trauma that individual experiences and their ability to 	<p>The reduction of avoidable delay is a key priority for the PPS and its criminal justice partners.</p>

readjust and move on following the crime because it is always hanging over them”.

- The Criminal Justice Inspectorate examined 200 case files prepared by the police and PPS and found that over half of those did not meet the quality standards, which can have “significant consequences, including delaying the progression of cases”. In an article by the BBC, Dean Kane spoke about his experience of the criminal justice system when he was trying to secure a child cruelty conviction against his parents, saying "Would I do it again? Probably not. Would I advise someone to even do it? Probably not, given how appalling I believe my case was handled” ... “My head's a mess, I don't know where my life's going. I don't know where the court case is going. I was getting no clarity, my life's on hold... The whole system from start to finish, the lack of being updated, the lack of knowledge that you have around it - you're just kept in the dark.”
- The Northern Ireland Audit Office conducted a report in titled ‘Speeding Up Justice’ found that “Crown Court cases in Northern Ireland typically take more than 500 days from the date an offence is reported until a verdict is delivered in court, twice as long as in England and Wales. Around 12 per cent of Crown Court cases in Northern Ireland take in excess of 1,000 days to complete.”
- The Chief Inspector of the Criminal Justice Inspectorate said, about the CJINI 2023 Follow Up Review, that " New laws and IT systems will only take

<p>the criminal justice system so far if victims don't have the confidence to report crimes or withdraw their evidence because their dignity has been crushed and they are re-traumatized by the delay, lack of information and poor support they receive. This undermines the rule of law and confidence in our justice system.”</p> <p>Just as in Annexes A and B, it would be beneficial for prosecutors to be fully informed of the impact of delay on victims and witnesses.</p>	
<p>We would recommend that the PPS include more specifics with the length of time that can be expected for decisions on bail considerations, and how and when they will inform victims on these decisions.</p>	<p>We are unable to provide this information within our Stalking Policy.</p>
<p>In section 4.3.2, what are considered exceptional circumstances?</p>	<p>Exceptional circumstances will vary depending on the particular circumstances of each case. It is not possible to provide examples here.</p>
<p>How quickly is the victim informed that the suspect has been charged?</p>	<p>Police are responsible for charging suspects and have a duty to keep victims updated.</p>
<p>Is it possible to set a target for avoiding delay with consideration given to both parties awaiting court date, i.e. from date of charge x amount of weeks for court date?</p>	<p>We are unable to provide this information within our Stalking Policy.</p>
<p>Section 4.3.1 is not clear on what is meant by “proper reason” to not prosecute</p>	<p>Noted.</p>
<p>Section 4.4.4 discusses the use of good character information, and we would like to strongly emphasise our fundamental opposition to the use of good character references in cases of domestic and sexual</p>	<p>Noted.</p>

abuse, stalking, harassment, and abusive and threatening behaviour.

Question 4

Chapter 5 outlines examples of special measures that the PPS can apply for to make evidence-giving a more comfortable experience, the importance of early applications, and is very clear that the defendant has no right to cross-examine a victim of an offence of stalking in person.

However, we would recommend that clarification be included on how and when victims are informed of special measure decisions.

Noted.

The policy is also aware that there are additional barriers for victims and witnesses for whom English is not their first language- however, we note that in 5.3.1, the policy has advised that 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”. A survey conducted by Crest Advisory, a group of crime and justice specialists, with over 5,000 adults in England and Wales found:

- 46% of Black people trust the police, compared to 62% of the general population
- 75% of Black adults surveyed agreed that the police “do not treat people from ethnic minority backgrounds the same as White, British people”

Noted.

<ul style="list-style-type: none"> - 69% of Black adults believe they do not get the service or protection they need from the police. And in a similar survey with over 1,500 children in England and Wales, Crest Advisory reported that only 36% of Black children and teenagers trust the police, with Black girls reporting the lowest among all those surveyed at 33%. - “Less than a quarter of Black children and teenagers questioned for the poll said they trusted police to stop and search them fairly and fewer than one in five trusted officers to treat people from different backgrounds fairly”. What this research illustrates is a mistrust of police, and as such as would advocate that Section 5.3.1 be revised to “PPS will seek advice from police and the Victim and Witness Care Unit 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”. Including the VWCU will provide a victim/witness-centred safeguard for victims and witnesses who may have a distrust of the police and their agencies. 	
<p>In Section 5.1.3, the guidance states that: “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”. We assert that the protection and safety of victims will always improve the quality of evidence.</p>	<p>Noted.</p>

Question 5

As a charity that provides training, educational workshops, and public awareness campaigns, we value inclusion of the Annex sections to highlight the behaviours and impacts of stalking. This can be a valuable aid for anyone who may be impacted by stalking. By providing information on the signs of stalking, potential victims may be better equipped to report a crime and seek support.

Noted with thanks.

Question 6

There are portions of the policy that are clear, concise, and detailed in a format that is accessible and explanatory. The document contains descriptions for relevant legislation as well as links to further information. For the Protection from Stalking Act 2022, the policy document clearly outlines the provisions of the Act, highlighting key sections, providing definitions and example case law. The policy provides the legal text from the 2022 Act as well as an explainer- for example, in 2.2.5, the policy states “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’”. This is a clear example of how to provide a legal and

Noted.

<p>conversational explanation of course of conduct that would be understood by people who are not involved in the legal profession or studied law.</p> <p>However, as we have noted in Questions 2-4, there is work to be done to provide explanations of how the prosecution will use the Act to pursue prosecution, how exactly they apply the Evidentiary Test, and how the PPS communicates with victims and witnesses. The policy makes several assumptions that the reader will understand the prosecutor’s reasoning for taking decisions, such as how much weight is given to the victim’s wishes in situations such as alternatives to prosecution and bail, how they interpret “interest of justice”, and what are considered exceptional circumstances for the acceptability of pleas.</p>	
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Question 7	
<p>Overall, there are sections where the policy provides an easy-to-read, step-by-step guidance on how the PPS and prosecutors will handle cases of stalking. However, we would like to suggest that, in Chapter 1, the guidance provide more information on the training given to prosecutors, as this would inform victims' choice to pursue a judicial outcome as well as make victims and witnesses aware of how much familiarity the prosecutor has with the subject. For example, who provides the training, in what format, and how is the lived experience of victims embedded into the training? We would also recommend the inclusion of an annex which outlines the evidence of trauma-informed practise outcomes inside and outside of the PPS.</p>	<p>Noted.</p>

<p>Chapter 2 outlines the Protection from Stalking Act 2022, including how the offences of stalking and threatening or abusive behaviour are met, the definitions of course of conduct, reasonable person test, fear or alarm, the statutory defence of TAB, penalties for the offences, and safeguarding victims. Understanding the legal definitions, duties, and protections for victims of stalking and TAB are essential for both the criminal justice system and the public, in particular victims and witnesses and their advocates. Just as we did in our answer to Question 3 regarding good character references, we recognise that the term “reasonable person test” is codified in the Protection from Stalking Act, and therefore must be reflected in practise and in this guidance- however, from a trauma-informed perspective, we would strongly recommend that the PPS advocate for reviewing this language in line with promoting a victim-centred approach and work with the DoJ and Northern Ireland Assembly to analyse the possible implications of the phrase ‘reasonable person’ on victims of stalking and propose to re-word "reasonable person" to "reasonable behaviour.</p>	<p>Noted.</p>
<p>We have some points for clarification and recommendations for Chapter 3, particularly to request further details on the test for prosecution, how the PPS weighs the wishes of victims and their families, and how the PPS communicates with victims.</p>	<p>Noted.</p>
<p>In relation to Chapter 4, we advocate that, a commitment is made for the PPS to embed trauma-informed practise for their prosecutors, including commitments from prosecutors to exhausting every option to communicate any changes or updates with</p>	<p>Noted.</p>

<p>victims and witnesses. In conjunction with this, we also recommend that Chapter 4 should include further details on the impact of delay on victims to emphasise the importance of timeliness, accountability, and enforcing the high standards of case quality with the PSNI.</p>	
<p>For Chapter 5, we have highlighted research into mistrust of the police for victims of crime who come from marginalised communities, particularly the Black community, to inform PPS policy on determining the need for an interpreter. We recommended including the opinion of a Victim and Witness Care Unit case worker and any other victims advocate to reflect the victim-centred approach to supporting victims.</p>	<p>We thank you for sharing the research in this area.</p>
<p>Finally, we welcome the addition of Annexes A, B, and C as useful guides for raising awareness of stalking behaviours.</p>	<p>Noted with thanks.</p>

<p>Question 8</p>	
<p>As the hosts of the Domestic and Sexual Abuse Helpline, we would like to see the Helpline section amended to:</p> <p>“The Domestic and Sexual Abuse Helpline provides free, confidential information and support to people directly and indirectly impacted by Domestic and Sexual Abuse across Northern Ireland. The Helpline is available to people with lived experience, those concerned about someone, those with concerns as to whether abuse is occurring, and to professionals working with people who may be impacted by abuse. The Helpline also works</p>	<p>This section has now been amended as proposed.</p>

collaboratively with statutory agencies and other charities to provide further support. The Helpline will direct callers to the appropriate support in both emergency and non-emergency situations. The Helpline is available 24/7, 365 days a year. Trained, experienced staff are available to help via phone, email and webchat. To contact the Helpline, call 0808 802 1414, email at help@dsaahelpline.org, or use the live chat feature at www.dsaahelpline.org. It is free and the number does not appear on a landline telephone bill. A telephone translation service is also available”.

Question 1

At 2.2.9 the points made under 'substantial distress' focus on the experience of adults and include children only as an indirect victim based on if a parent is the victim of stalking. We would encourage the PPS to include some examples of how substantial distress would be determined in respect of a child or young person as a victim themselves.

Noted and amended.

The first point at 2.2.23 notes that:

“Section 3(2) of the Act provides victims of stalking with automatic eligibility to apply for special measures”

It should be highlighted here that a victim or witness who is under 18, is automatically eligible for special measures without further qualification as per Article 4(1) of the Criminal Evidence (Northern Ireland) Order 1999. We note that this is referred to in 5.1.5 but clarification on this should also be made early in the document.

Noted.

Question 3

With regard to the information outlined in section 4.7 on avoidable delay, the NSPCC welcomes recognition by the PPS of the severity of the impact of delay in cases and how this can be extremely distressing for victims. It is well evidenced that delay can further contribute to stress and poor wellbeing in the pre-trial period. Witnesses under the age of 18 who

Noted.

journey through the criminal justice system often experience symptoms of anxiety, stress, problem with sleeping and eating, depression, panic attacks and even self-harm. Ensuring that the timeframe between the crime being reported and the trial is crucial to ensuring that children are kept safe from harm and there is less opportunity for re-traumatisation. It is also vital that once the court date has been set, the case is dealt with expediently and not unnecessarily delayed. The time between the first and final court date should be as close in time as possible in order to reduce any trauma that could occur, as well as ensuring that children are enabled to give the most complete testimony possible.

Question 4

At paragraph 5.5.2, we would encourage the PPS to include more detail on the Young Witness Service similar to the description included on the Victims Service provided by Victim Support NI. We would recommend the paragraph below is included in order the information on this service.

“The Young Witness Service provides support to children and young people under 18 years old who have to attend court as prosecution witnesses. The free, independent and confidential service is provided by NSPCC staff and volunteers who will offer information and advice to children and young people before, during and after the trial”

This information has been added at para 5.5.3.

It is important that children, young people and their families are provided with the same amount of information on the service that will be provided to them, as the adult service, in order to reassure them on what support they can expect.

Question 8

We are pleased to see that the PPS policy for prosecuting cases of stalking recognises that young people are particularly vulnerable to cyberstalking, however we would suggest that there is more clarity around what policy will be used to outline how cyberstalking will be prosecuted. As reference is made to the PPS Policy for Prosecuting Offences involving Electronic Communications is referred to for more information, it is unclear which policy will be used in these cases. As far as we can see the latter policy does not make reference to stalking within it.

Updates to the electronic communications guidance are being considered.

S.M. (Individual Response)

Comment

PPS Response

Question 1

The problem is that police do not see the stalking behaviours of women toward men as serious enough to do anything. Whilst there is a line in your training saying it can also happen to men and boys I seriously doubt you will have many cases brought to your attention about the abuse men or boys face.

No matter the amount of evidence I had of my ex-partner cyber stalking me, following me in person, contacting people about me who were only briefly know to me, sending Pizzas and take away foods to my house, calling at all hours of the day and night, arriving in taxis drunk, sending taxis to the house. It was never seen as serious or deemed to be stalking. These behaviours are recent and ongoing. You are only as good as the police information you are provided. I have never been told about a stalking protection order. I had two non-molestation orders to protect me from her and police did and would not enforce them. The police said - do you think any of your behaviours are making her behave like this? Is there anything you could be doing to antagonise her? The police suggested I come off social media and change all my numbers and email addresses again. She was never charged.

I felt worse and was humiliated trying to explain how low and frightened her behaviour made me feel. The police could not have had less interest and you need to know that.

Noted. Tackling stalking is a priority for the PPS.

This policy applies equally to all victims regardless of gender.

Question 2

First of all it does not bring cases to you where the police have not applied the law correctly. I would say that that is in the majority of cases where men are being abused by women. The police man asked me what my greatest fear was and he may not have been smirking but it felt all over as if he and his partner could not wait to get away and have a laugh about me. All of the police response I experienced was them treating me as if I was a nuisance. They told me over and over again that it was harmless and would 'settle down eventually'.

So if cases like mine never get to you it doesn't matter how good your planning and steps are. Do you also treat men and women the same?

Noted.

Prosecutors take decisions in accordance with the Code for Prosecutors. Prosecutors must be independent, fair and impartial.

Beyond a reasonable doubt is pretty easy for some elements of a stalking and harassment case but for others it is not. Sometimes I have received 60 calls in one evening from a withheld number. My business has had multiple call outs, more than 20, that are all fake. This is all connected but can you prove it beyond reasonable doubt? Maybe that is too high a boundary and balance of probabilities is what we need. I mean who else would call me sometimes 200 times in a week and drop the call - but I suppose it might be someone else.

Noted.

Further information on our Test for Prosecution is set out in the Code for Prosecutors. A link to the Code is included in this policy.

Public interest is a weird one because my abuser is the mother of 3 children. Now that should make her not behave like this but would you or the court see prosecuting her as in the public's interest? Police have never involved social services in this

Noted.

<p>which might have stopped her in her tracks as they took her two kids away after the antics after her last fella.</p> <p>Will the judge and jury treat me as a man differently that a woman facing stalking and harassment? I mean even I think stalking a woman is worse and probably more scary but that doesn't mean this has been a walk in the park. Really, truly, far from it.</p>	
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Question 3	
<p>I know I keep going on about this but who makes sure that men are treated in the same way as women when they come in front of the police, the PPS or the court as victims?</p> <p>Please do not give us hope that something might be done and then treat us as a joke or second class citizens.</p>	Noted.
<p>I have spent ages trying to understand what has been happening to me and it was only speaking to the Suzy Lamplugh helpline that I understood this to be stalking and harassment. The NI Domestic abuse Helpline really had no clue about how to deal with stalking or harassment behaviours, they said to consider if maybe it was just a misunderstanding and maybe my ex thought it would woo me back they suggested to arrange a meeting with my ex and tell her how this was impacting on me. The Lamplugh Trust said this was the exact opposite of what I should do. The Helpline here is dangerously badly informed about stalking.</p>	Noted.

I think not having to see the person in court is good too and not having to enter the court in the same way, stuff like that.	Noted.
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Question 4	
Why do you offer special measures and then say the judge might not let you have them? That doesn't make sense and would make me feel really unsafe. Why would a judge possibly say no? Do they say no to women and men? Who oversees these decisions? What happens if a Judge is acting unfairly?	<p>Noted.</p> <p>Chapter 5 of the Policy outlines the supports available to victims of stalking. Prosecutors will make applications in appropriate cases.</p> <p>It is for the court to decide whether special measures should be granted after applying the legal tests.</p>

Question 5	
I'm interested in how you say that the resentful stalker has a mental illness - who says? My stalker is my ex but she is both and intimate and resentful stalker according to what you have described. Are the things you describe separate or can they meet different areas of stalking in one person?	<p>Noted.</p> <p>The information contained within Annex C has been taken from the Stalking Risk Profile. This is a tool that has been developed to assist professionals in identifying and understanding risk in stalking cases. It is accepted that stalkers may not fall into a discrete group.</p>
I enjoyed this part of the document but I do think you could talk about how stalking and abuse can impact on men and women differently as this would try to make everyone more aware of how it does and how important that can be.	<p>Noted with thanks.</p> <p>Section 1.3.9 recognises how the impact of stalking will be different for all victims and dependent on their personal characteristics and circumstances.</p>

Question 6	
The document was fine for me but when my brain is working and not being	Noted.

<p>overwhelmed with all of this I have a good grasp of English.</p>	<p>Provision of more accessible information is currently being considered, for example by way of supplementary guidance, videos / animations etc.</p>
<p>It is hard to see how a child or person with reduced literacy might access this document</p>	

<p>Question 7</p>	
<p>It almost does.</p> <p>You really must state that stalking cases often involve women stalking men - especially in intimate ex stalking and via the means of cyber stalking. I can honestly think of 10 men I know off the top of my head who have had their partners post on, ' Are we dating the same guy NI' telling terrible lies, send sexual pictures of my mates to their contacts, make fake profiles to follow on social media and absolutely torture via the phone whether personally or in work when the guy has changed his mobile number.</p> <p>This abuse of men is different than of women and I know probably not as bad or scary but it is genuinely life changing. I've experienced almost a year of it to date and it has left real scars behind that will take years to get over.</p>	<p>Noted.</p>

<p>Question 8</p>	
<p>Please make sure that police, PPS and the Court - judges and juries see that men are victims and that they can be victims of women and men.</p> <p>Without doing that work you have no chance or creating change or something that actually works to keep us all safe or safer</p>	<p>Noted.</p> <p>It should be noted PPS prosecutors received training from Men's Advisory Project NI during 2024.</p>

South East Area Domestic and Sexual Violence Partnership

Comment	PPS Response
Question 1	
<p>Yes we believe there is sufficient information in respect of the legal framework for both the offence of stalking and those that fall under Threatening or Abusive behaviour. However, it is a bit of minefield as there is an overlap in the offences. We believe that the guidance provided will assist both victims and professional to have a better understanding of these offences. We consider that the safeguards which will be put in place to optimise the victims ability to give evidence given the level of fear they are likely to be experiencing is to be welcomed. The fact that it can place prohibitions and requirements on perpetrators is also a positive development.</p>	<p>Noted with thanks.</p>

Question 2	
<p>Whilst this is a clear and concise guide, we hope that it will translate into practice on each and very occasion. It is good for victims and professional alike, that "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." (3.6.2 refers).</p> <p>We would caution however the use of diversionary disposals where stalking is clearly evidenced, given the obsessive and fixated nature of this crime.</p>	<p>Noted.</p>

<p>It is welcome that the impact on children is also going to be considered under 3.9.7 where children are actively impacted by the fear engendered and the impacts of stalking, but also the children can be used as pawns by the perpetrator to inform on their mothers movements and contacts she may have.</p>	<p>Noted.</p>
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<p>Question 3</p>	
<p>Although conviction for crimes of stalking can only be applied from 27 Apr 22, can similar patterns of behaviour that police and professionals are aware of that occurred prior to this date, be used as reference of bad character to show an already previous history of stalking existed?</p>	<p>Offences prior to 27 April 2022 may be prosecuted under other criminal offences in force at that time.</p>
<p>We would agree with 4.1.4, that victims are advised on applications to vary bail so that their security and safety can be reviewed if the alleged perpetrator is released into the community pending hearing.</p>	<p>Noted with thanks.</p>
<p>Paragraph 4.2.4 is welcomed for the protection and support of the victim whilst giving their evidence in court. At 4.3.1, we welcome the support of an advocacy worker such as ASSIST, to support a victim throughout the court process as early evidence seems to suggest greater 'stickability' to see the process though when an advisory worker is appointed.</p>	<p>Noted with thanks.</p>

Question 4

Yes we consider it is all of value and would re-emphasise the comments made at Q3. above.

Noted with thanks.

Question 5

Yes, we consider these are valuable pieces of information for both victims and professionals to refer to in an easily read and understood manner. The inclusion of hyper-links is a good tool for accessing further information and widening the readers' knowledge.

Noted with thanks.

Question 6

Again, this is useful, educative information that is easy to read and understand.

Noted with thanks.

Question 7

The general principles, commitment and associated working practices are well explained in the document, however there is much referenced to what the PPS "should do" relating to the standard of service, as opposed to "will do". The use of "will" suggests much more affirmative action and removes any ambiguity of what is required to be done.

Noted.

The justice agencies of Northern Ireland need to consider establishing a register for prolific offenders of stalking, to be managed under the Public Protection arrangements similar to violent and

This is a matter for consideration by the Department of Justice.

sexual offenders, where they are risk assessed and risk managed.	
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Question 8	
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Justice agencies also need to consider the development of treatment programmes for young offenders and adult offenders, if they don't already exist, for convictions of stalking.	This is a matter for consideration by the Department of Justice.
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Victim Support NI

Comment	PPS Response
Question 1	
<p>There is a significant amount of detailed and complex information in this chapter which covers the framework and provisions. Given the breadth and at times complexity of information it may be difficult for children and young people, those with English as a second language or difficulties with processing text to fully comprehend the chapter in a meaningful way.</p>	<p>Provision of more accessible information is currently being considered, for example by way of supplementary guidance, videos / animations etc.</p>
<p>While this section does well at avoiding legal jargon it would be worth considering breaking down this information in a simpler format through a pictogram or similar tool.</p> <p>It is also suggested that an easy read version or animation is considered.</p>	<p>Please see above.</p>
<p>Given the purpose of the document is also to advise of the support available to victims, consideration should be given to including support at this early stage referencing Appendix D.</p>	<p>Noted.</p>
<p>The use of exemplars to illustrate points is welcomed. In relation to specific bullet points – 2.2.8 – what constitutes an “element of concern”? some definition of this would be helpful.</p>	<p>Noted.</p>
<p>Para 2.4.4 – it is not clear this involves a current partner.</p>	<p>Noted and amended.</p>
<p>Para 2.4.11 – it is not clear to a lay person what is meant by an either way offence.</p>	<p>Noted and amended.</p>

Question 2	
This section does fully explain the key issues considered by a prosecutor.	Noted with thanks.
Section 3.6 / 3.11 as the purpose of the guidance is twofold; we would ask that consideration is given to again to stating that support is available for those who have received a no prosecution decision from external organisations. Direct links should be inserted here.	Noted.
Section 3.1 – Consideration to be given to clarifying how stalking offences and their investigation work operationally in light of the current PSNI pilot of “No File Decisions (NFDs) and whether stalking falls under this current pilot – helpful if that could be clarified to ourselves. If this is the case, considerations should be given to including this in this section.	<p>As the Stalking offence falls within ‘case weight’ category 5 (offences which are generally directed upon by a Public Prosecutor), such cases are eligible for consideration as part of the No File Decision process.</p> <p>The NFD initiative remains in its pilot phase, therefore no information has been included in the policy. This will be revisited should the process be implemented on a permanent basis.</p> <p>Details of the NFD pilot are available on the PSNI website.</p>

Question 3	
We would agree that all the information in this section is valuable.	Noted with thanks.
It would be helpful to include an explanation of the differences between the Magistrates’ Court and Crown Court and the types of cases that may progress through both.	Noted.
4.1.4. The use of the word “should” – if this is the case and the Defence should,	Noted.

<p>could this section be strengthened to highlight what measures are open to Prosecution/Victim if Defence do not give proper notice. It is not clear from this who holds Defence to account.</p>	
<p>Para 4.1.5 – How will victims be kept informed? Can this be extrapolated out with suggested timelines.</p>	<p>It is not possible to include this information within the Stalking Policy.</p>
<p>Section 4.2. – A direct link to the support available should be provided at this point so that for example victims know that they can be supported at 4.2.1.</p>	<p>Noted.</p>
<p>Para 4.2.3 – we would ask that the commitment given here is strengthened to ensure that they do speak to victims/witnesses and not try to speak to victims/witnesses. In the event of alternative charges, consideration should be given to victims being provided with additional support and time in order to consider the impact of a decision of this nature this may have on them. It is therefore important that this forms an early part of the consideration pre-trial.</p>	<p>Noted.</p>
<p>Para 4.4.2 - we would ask that consideration be given to including that free specialised support is available through Victim Support NI to help complete VPS. It should also be noted that Victim Personal Statements may be made available to the Defence if these are made before completion of the trial (this is an area that victims have expressed concern over previously). They have also expressed concern that if a case is before the magistrates court and goes for immediate sentence, there is no time to complete a victim personal statement.</p>	<p>Further information has been included at para 4.5.4.</p>

Consideration should be given as how this is noted in this point.	
Para 4.5 – Again can the help links be included at the start as opposed to the final paragraph.	Noted.
Section 4.6 – Please include the timeline for appeals ie they must appeal within a certain timeframe.	It is not possible to include this information within the Stalking Policy.
Para 4.7.4 - we would ask that consideration be given to providing a timeline of when and by what method (ie letter, SMS) victim will be informed of the decision i.e. 24 hours, 1-2 days etc. It would be helpful to re-emphasise the support services open to victims as learning about the progress/outcome of their cases can often be a traumatic time for victims who will have questions.	The standards of service which victims can expect are set out in the Service's Victim and Witness Policy and in the Victim Charter.
Para 4.7.6 - this section does not specify who is responsible for ensuring the victim is informed. We would ask that consideration be given to expanding this section to include who is informing victims of adjournments and when.	The role of VWCU in keeping victims informed is set out in para 1.4.3.

Question 4	
This section will be of particular interest to victims of crime. The information with regard to special measures is valuable to victims given the nature of these offences. In the context of supporting victims of serious sexual offences, we have found that information about available special measures at the outset can be enormously reassuring to victims.	Noted with thanks.

<p>Para 5.1.2 – Bullet 1 – final sentence – can this be amended to read Witness Service provided by Victim Support NI.</p>	<p>This reference has been amended.</p>
<p>Para 5.1.5 – if the context is one of stalking within a DV context – are they not also automatically entitled to Special Measures?</p>	<p>Victims of stalking are provided with automatic eligibility <i>to apply</i> for special measures under the Act. This is the same entitlement that victims of domestic abuse have under the Domestic Abuse and Civil Proceedings Act.</p>
<p>Para 5.1.6 - we would ask that consideration be given to providing more specificity around where more information on special measures can be found on the website, i.e. a link.</p>	<p>A link has been added at para 5.1.1.</p>
<p>Section 5.2 (RECs) – We would ask that further information is included about RECS as to the benefits that RECS afford vulnerable and intimidated witnesses.</p>	<p>Additional information about the Remote Evidence Centres has been added at para 5.2.3.</p>
<p>Para 5.3.1 - in this section it can be read that the PSNI determine whether an interpreter is needed or not rather than at the request of the victim. We would ask that consideration be given to clarifying this so it is understood that a victim may request an interpreter if necessary.</p>	<p>Para 5.3.1 has been amended as required.</p>
<p>Section 5.5 should read Victim Support NI Witness Service.</p>	<p>This reference has been amended.</p>
<p>Para 5.5.1 - we would request that consideration be given to separating out Victim Support NI and NSPCC to definitively distinguish between adult services and U18s. We would also ask that consideration is given to adding that pre trial visits and referrals to advocacy and support outside of the courts process as well as separate waiting areas are provided through Witness Service support. It should also specify that support applies</p>	<p>See amendments at sections 5.5.2 and 5.5.3.</p>

to Prosecution Witnesses only. Please amend “support schemes” to support services.

Question 5

Yes these annexes are very useful as in our experience, particularly through the Sexual Offences Legal Advisors, we find individuals may refer to a series of incidents involving the alleged perpetrator but do not identify as victims of stalking. ‘Stalking’ is a term we don’t hear much from clients, which may be due to victims having different preconceptions about what stalking involves/lack of awareness of the recent legislation. In these circumstances, we would advise victims to report such incidents using the 101 number to ensure it is recorded by the PSNI.

It is important that the PSNI are then proactive in connecting what may appear to be a series of relatively minor incidents (in the context of, for example, a serious sexual offence case) to ensure that, taken cumulatively, can be categorised as ‘stalking’ where appropriate. There’s a risk that, even where incidents are recorded, that no-one joins the dots (especially in complex cases involving a number of different elements).

Noted with thanks.

Noted.

Question 6

The information is detailed and at times complex. We would reiterate that consideration should be given to provision of a simplified format in summary of the

Provision of more accessible information is currently being considered, for example by way of supplementary guidance, videos / animations etc.

main points for children and young people, those who have English as a second language and those who have difficulty processing written information.

The document is set out clearly but some of the language can become confusing due to the sheer amount of information presented. Using info graphics and/or flowcharts in the Appendix should also be considered.

Question 7

Yes the policy is very comprehensive regarding the PPS practices and standards of service. We do note however that the language around engagement with victims/witnesses could be strengthened particularly in relation to court cases. For example in 3.2.1 – the role of the Prosecutor – it uses the term prosecutors “must”. This is quite definite. When you move to section 4 eg 4.2.3 – the language is less definite – “will make every effort”, “will try” to speak to victims. Victims have told us this is frustrating for them as they need the reassurance that the Prosecutor understands their case and the impact it has on them.

The language used throughout the policy reflects our duties under the Victim Charter.

Question 8

The document is very comprehensive and provides a large amount of information. We would ask that consideration be given to including a specific paragraph that references the Sexual Offences Legal Advisors available for anyone who has also been affected by a serious sexual

Information on SOLAs is contained within our Sexual Offences Policy.

<p>offence and a link to this section on our website.</p>	
<p>Section 1 – The purpose of this document is twofold, to explain the prosecutorial approach and to advise of support. Given that we would suggest that 1.1.1 is separated out into two separate bullets. We would also suggest that a further bullet point is included at this early stage to identify that support is available throughout the whole process with a direct links to support organisations. This reinforces to victims at a very early stage, the importance that PPS put on victims obtaining support.</p>	<p>Noted.</p>
<p>Direct links to support orgs should be included in 1.2.6. & 1.4.5.</p>	<p>Links are contained at section 5 of the policy where the services are outlined in greater detail.</p>
<p>Para 1.4.1. – It may be helpful to remove the opening sentence here and go straight into who makes up the VWCU. This is often a source of confusion for victims (as to who and what is the VWCU and are they VSNI) and it would be helpful for them to know that this is a dedicated unit staffed by PPS & PSNI.</p>	<p>Noted.</p>
<p>Page 51 – Can this be entitled “Support for Victims/Witnesses”.</p>	<p>Noted.</p>
<p>The reference to Victim Support NI does not fully encompass the relevant and necessary support services available to victims of crime and given that we are tasked under the Victim’s Charter, we would request that consideration is given expanding this section:</p> <p>“Victim Support NI is an independent charity which provides direct support</p>	<p>This amendment has now been made – see page 53.</p>

services to people affected and impacted by crime. In addition to our Witness Service, we provide help, information and emotional support to help you recover from the impact of crime. We have advice workers that can support you to complete a Victim Personal Statement. If you have been injured, we will help you apply for compensation through the Criminal Injury Compensation Scheme. We have specially trained staff who provide advocacy to child victims of sexual violence. We have solicitors to support victims of Serious Sexual Offences. We provide support and advocacy to victims of hate crime through our Hate Crime Advocacy Service. We provide referrals to other support organisations where relevant. All our services are free and confidential.”

Women's Aid Federation NI

Comment

PPS Response

Opportunity to dispel misconceptions on the role of the PPS

Through the various consultations that Women's Aid have conducted with victims and survivors in our services, a repeated theme we keep hearing from women is often misconceptions of the role of the PPS in relation to their criminal justice case progressing through our Courts system here in Northern Ireland.

A common misconception we often hear from those who engage with at Women's Aid and when in conversation with the wider general public is that there is often confusion around what the Public Prosecution Service (PPS)'s role is when it comes to a criminal case going to court following someone contacting the Police, and what their role is during its journey.

Common misunderstandings amongst the general public include:

- Victims and survivors believing that the PPS Prosecutor is their legal representation in a criminal case.
- The PPS are part of the Police Service of Northern Ireland, as they tasked to bring a criminal case to Court on behalf of the Police

Upon review of the draft consultation and listening to women who engage with our services over recent years, Women's Aid believe it would be beneficial to victims, survivors and the wider public to expand on the explanation of what the Public Prosecution Service's role is within your

Noted.

A link to an animation explaining the role of PSNI and PPS is included in the policy at para 1.3.3.

policy documents and create a more ‘user friendly’ explanation of your role. This would mean anyone reading this policy ‘cold’ would have a basic understanding of how a case progresses through the criminal justice journey. We suggest using flow charts, or even the direction in the policy to the ‘How We Work’ section of the PPS’ website would be helpful for victims and survivors with no understanding of the criminal justice system in Northern Ireland could understand what they can expect and the PPS’ role in the process.

There is also an opportunity within this policy to highlight the roles of PPS personnel who victims and survivors will most likely engage with during the journey. Explanations of the role of Prosecutor or the staff member likely to contact them from the Victim and Witness Care Unit (VWCU) would be incredibly beneficial for victims and survivors to know who will likely be in touch with/interact with. This prior knowledge could help victims and survivors feel more knowledgeable about a process they have most likely have never engaged with before. Victims and survivors often tell Women’s Aid the lack of communication and clarification on what the process is on their case causes them further unnecessary distress and confusion. Any opportunity to educate the public on who in the PPS is likely to engage with them will help build understanding, and hopefully help minimise any further distress caused to victims and survivors.

By dispelling misconceptions of the role of the PPS and clearly mapping out the various paths a criminal case can take

This proposal will be considered as part of a review of our Victim and Witness Policy in 2025.

<p>within the system will only help victim and survivors gain more confidence in their understanding on their criminal case and ultimately lead to less distress in what can be of many a distressing and re-traumatising period in their lives.</p>	
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<p>Introduction</p>	
<p>In regard to the introduction section of this draft document, Women’s Aid welcome the acknowledgement around stalking being increasingly recognised as another form of domestic abuse and how as an extension of the abuse by the perpetrator, often who is a current or ex – intimate partner.</p>	<p>Noted with thanks.</p>
<p>Upon review of this draft policy, Women’s Aid do welcome the commitments made to the Domestic & Sexual Abuse Strategy, the Ending Violence Against Women & Girls Strategy and a number of international law obligations including CEDAW and the Istanbul Convention. Whilst Women’s Aid is familiar with the local and international policy frameworks to tackle gender-based violence and crimes that disproportionately affect women and girls like domestic and sexual violence, the public would not be as aware of this policy environment, and therefore would find the references made in page 5 of this draft document lacking concise and clear language.</p> <p>Firm commitment from the PPS to tackle stalking as a form of gender-based violence is of key importance to build confidence in victims and survivors within the criminal justice process. When referencing gender- based violence, it is of</p>	<p>A new Section 1.2 (Ending Violence Against Women and Girls) has been added to the document.</p>

great importance that the PPS be explicit in this policy through the use of clear and concise language their commitment to tackling this issue in a way that anyone reading this document without any prior context can fully understand it. Women’s Aid would therefore recommend the expansion of the sections relating to tackling Violence Against Women & Girls to help give the reader a clearer understand of the PPS’ acknowledgment of the gendered nature of this crime and commitment to tacking it for victims and survivors.

Question 1

Based on our review of this draft document, we understand the rationale of 2.5.9 in terms of the decision to take up the stalking charge rather than a domestic abuse charge in circumstances in which there were no previously reported incidents of abusive behaviour during the relationship. Women’s Aid would encourage that charges sought against alleged perpetrators be of the higher sentencing potential in order for victims and survivors going through the criminal justice process to have more confidence that what has happened to them will be sufficiently dealt with through the Courts.

We would also suggest the amendment of “where there have been no previous incidents of abusive behaviour” to “where there have been on previously reported incidents of abusive behaviour” would be more trauma informed and sensitive approach to the issue. Many victims and survivors of domestic abuse may never report what has happened to

Noted.

This has now been amended.

<p>them to the authorities out of fear of retribution from the perpetrator, shame, or lack of understanding what happened to them is considered domestic abuse under the law. Making a small change in the wording would acknowledge those who felt they could not come forward to report at the time on how difficult that can be for victims and survivors.</p>	
<p>As highlighted earlier in this submission, Women’s Aid campaigned for the introduction of specific stalking legislation in Northern Ireland as the harassment legislation in place was not fit for purpose when it came to dealing with stalking behaviours experienced by victims and survivors in our services.</p> <p>With the introduction of stalking legislation in May 2022, Women’s Aid expected to see a trend of more stalking cases being brought forward through the Criminal Courts and a big downturn in the use of harassment legislation, as there were legislative powers in place to truly take stalking behaviours seriously.</p> <p>As referenced in the draft policy, “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.”</p> <p>Whilst we appreciate the newer stalking legislation has only been in place for just over two years at the time of writing of this submission, Women’s Aid would have serious concerns about the level of stalking cases being progressed through our criminal court vs harassment cases.</p>	<p>PPS and PSNI are currently undertaking a joint quality assurance exercise focusing on harassment cases to ensure that the stalking offence is being used in appropriate cases.</p>

According to PSNI Crime Statistics for the financial year 2023/2024, less than 2% of cases classified under the 'Stalking and Harassment' umbrella were actually stalking cases. The vast majority (approximately 73%) were classed as 'harassment' cases, followed by Malicious Communications (approximately 19%) cases.

The incredibly common nature of domestic abuse, which made up approximately 20% of all overall crime in Northern Ireland alone, has Women's Aid concerned at the data showing still remaining high levels of harassment cases vs less than 2% of specifically stalking cases going through the criminal justice system in 2023/24.

This discrepancy in the charge rates between the two offences is concerning to Women's Aid, as it flags to us a potential issue that the right charges are not being applied in the appropriate circumstances. Therefore not effectively acknowledging the serious, insidious and terrifying nature of stalking behaviour and its effects on its victims. The below example of this is a recent case going through the Magistrates Court in Northern Ireland at present which we have omitted the identifying details as it is ongoing, but we feel is an example of a misappropriation when it comes to choosing harassment charges over the more appropriate stalking charge:
The Accused is charged with harassment, domestic abuse and persistent improper use of a communications network for incidents against a woman in early 2024. He is also charged with harassment of the same woman in the summer of 2024. He appeared in court recently via video link as he is currently on remand.

Police objected to him receiving bail, stating that he is accused of sending thousands of emails and WhatsApp messages to the woman.

He was initially released on bail when the incidents happened in early 2024, but bail was revoked as he was found to have breached the conditions by contacting his victim on another person's mobile phone. The Dept District Judge refused the Accused bail, citing a risk of him further offending, and he is currently remanded into custody. The Accused has a previous conviction for harassment of another person in 2022 and has another conviction for impersonating a police officer to harass this particular victim.

He was given a five-month sentence, suspended for two years at the time. Upon being made aware of this case through court reporting, the authors of the submission were incredibly concerned to read the circumstances of this case where there are clearly repeated concerning stalking behaviours, to the point the Accused has been remanded into custody twice because of reoffending concerns. Women's Aid would be incredibly concerned as to why an example such as this is being treated with Harassment charges (which carries a less significant tariff) than the Stalking offence when clearly the Accused's behaviour doesn't meet this suggested example in the draft policy of "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."

<p>Given these circumstances, harassment charges are clearly inappropriate for the case's situation.</p> <p>Would we therefore recommend and welcome an examination into use of charging stalking vs harassment going forward considering the still remaining high levels of harassment charges against an incredibly low stalking charge rate.</p>	
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Question 2	
<p>The decisions taking by the PPS in relation to stalking cases must of course remain independent and free of any prejudice in the interests of fairness within the criminal justice system. However, it is also of great importance of those individuals taking these decisions to receive adequate training on stalking behaviours and their motivations.</p>	<p>Noted.</p> <p>Prosecutors received stalking training from Action Against Stalking. PPS have also committed to reviewing stalking training annually.</p>
<p>As highlighted earlier in this submission, a repeated theme Women's Aid services here from our clients is that poor communication causes unnecessary confusion, distress and can be incredibly re-traumatising for victim and survivors. What is key is that any decision, regardless of the outcome, must be clearly communicated and should the victim wish to appeal any decision, there pathway in doing so must be clearly communicated in order to be a truly trauma informed process.</p>	<p>Further information is available in the PPS Victim and Witness Policy and on the PPS website (see 'Victims and Witnesses').</p>
<p>Upon review of this draft policy, Women's Aid believe that there should be inclusion and reference to the policy in place which allows for the early disposal of cases so that victims and survivors may be aware</p>	<p>The 'No File Decision' (NFD) initiative remains in its pilot phase, therefore no information has been included in the policy. This will be revisited should the process be implemented on a permanent basis.</p>

<p>that they case may have not made it to the PPS in the first instance. The early disposal of cases in itself is a decision not to prosecute, and is policy is something that Women's Aid strongly oppose the use of in cases involving domestic abuse, stalking and sexual offence cases for a number of reasons including the risk of repeat offending, the risk to victims and survivors of abuse and what we perceive as an unequal access to justice for victims and survivors. It is important that anyone reading this policy know where their case is in the system and clearly communicated to them why if it is stopped at any point in the criminal justice journey, they are informed as to why and it is clearly communicated to them.</p>	<p>Details of the NFD pilot are available on the PSNI website.</p>
<p>Women's Aid welcome the explanation of risk assessments in section 3.8 of this draft document. As referenced previously in this submission, making this document as concise and accessible as possible for victims and survivors of stalking will only be of benefit to help break down barriers around understanding and communication. In this spirit, we would recommend the inclusion of hyperlinks should anyone access this document want to learn more about DASH or someone who is being discussed at a MARAC meeting, as clarification will only help relief confusion and unnecessary distress for victims and survivors.</p>	<p>Noted with thanks.</p>
<p>Prosecutors should always consider whether there is any risk to the safety of the victim in the case proceeding without their support; a victim should not be placed at increased risk through this course of action.</p>	<p>Noted.</p>

<p>It is important that prosecutors understand and recognise the dynamics of risk in relation to stalking cases. What someone sees as a charming act e.g. leaving flowers at the doorstep can be something that increases fear and intimidation within an individual. Risk assessment is fluid, continuing and dynamic process and is also changing especially in relation to domestic abuse related stalking post separation. It is important that prosecutors liaise with police officers to obtain appropriate risk assessment information from tools such as the DASH to obtain relevant information that has been obtained regarding risk. Research also suggests that a victim's own assessment of their risk is as accurate as some predictive tools. Most risk assessment tools include a question asking victims if they are frightened and what they are afraid of.</p>	
<p>For victims and survivors of stalking and other traumatic behaviours, it can often be an incredibility emotionally and physically daunting experience engaging in the criminal justice process. There are many reasons why victims and survivors may disengage with the process – to protect their mental wellbeing, the fear that if convicted their perpetrator will get a lighter punishment like a suspended sentence and fearing for their long-term safety by testifying against a perpetrator who frankly utterly terrifying to them.</p> <p>The list covered in para 3.9.2 of various scenarios as to why victims and survivors may retract their statement is broadly reflective of the experiences of Women's Aid services. We would however welcome the inclusion to the list an explanation that</p>	<p>Noted.</p> <p>Noted and included.</p>

the victim may be in a coercively controlling relationship with the perpetrator and as such, is being compelled to withdraw their statement. The explicit reference to coercive control would be incredibly beneficial to those who are being stalked by someone whom there were previously or currently in an abusive relationship with, as it places into context as to why they are being compelled to withdraw their statement. In the vast experience of Women's Aid services, coercive control is always the core pillar of any abusive relationship and to anyone reading this policy, that explicit recognition for victims who are being stalked by their abuser may be helpful in them understanding what is happening to them and be a key to helping them break free of the cycle of abuse.

It is paramount that all specialised domestic and sexual abuse prosecutors are trauma informed. Re – traumatisation can often occur as victims disclose highly personal and distressing details about what has happened to them due to the perpetrator, and potentially being subjected to fierce cross-examination at trial. Knowing that they must recall incredibly difficult experiences to a room of strangers intensifies the barriers women face when thinking about reporting what has happened to them. Another way in which the PPS can help limit re-traumatisation for victims and survivors of stalking is good witness preparation.

Overwhelming we have emphasised to you within this response the importance of clear and concise communication is needed. This clear communication must also be inclusive of how the PPS prepare

Noted. PPS are currently reviewing training provision on trauma informed practice.

<p>witnesses for trial and emphasis the importance of trauma informed training for any PPS personnel who come into contact with victims before, during and after trial in order to minimise re traumatisation. There needs to be sufficient understanding for anyone engaging with victims and survivors of this type of offence that the criminal justice system can create, exacerbate or trigger trauma in all those involved.</p>	
<p>Whilst the inclusion of the various reasons why victims and survivors may withdraw their statement, many of which highlight the fear of personal safety, it is essential and can be lifesaving that there are directions to access resources around safety planning.</p> <p>Whilst we totally understand that safety planning is not the direct responsibility of the PPS, the inclusion of information on accessing safety planning information may be life saving for the reader of this policy who may be scared, confused and terrified for their personal safety. Sign posting to organisations such as Women’s Aid, Victims Support or the PSNI as some examples who can advise on victims and survivors of stalking to help keep themselves and their property safe would be incredibly beneficial for victims and survivors and help reassure them as they try to keep themselves safe and move on from a traumatic period of their life. Women’s Aid would therefore recommend the inclusion of a section specifically providing sign posting information on safety planning for victims and survivors of stalking.</p>	<p>Noted.</p>

<p>For victims and survivors of stalking, hearing the news that their case is not progressing through the criminal courts can be devastating and re-traumatising, especially when they have put a lot of emotional and physical energy to get to this point following contacting the police. Given this, and as repeatedly referenced throughout this submission, removing barriers within procedures and making information clear, concise and accessible is essential for any trauma informed policy of this nature to effectively support the emotional wellbeing of victims and survivors.</p> <p>We would therefore recommend in section 3.11.2, a hyperlink to the review procedure would be of benefit to victims and survivors of stalking, as well the clear instructions on how to lodge such a review to make the process as transparent as possible for those who chose to do so.</p>	<p>Noted.</p> <p>This information is included at footnote 14.</p>
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<p>Question 3</p>	
<p>Once a stalking case gets to court, it is essential that the victim in the case is kept actively updated on the whereabouts of their perpetrator within the criminal justice process and that this is done in a timely manner. Women often tell Women’s Aid that they feel there is not clear communication on if their perpetrator has been given bail, been remanded, etc., and the not knowing of where the perpetrator is within the process can be terrifying for them.</p> <p>Upon review of this draft policy, Women’s Aid feel that the information within section 4 could be utilised in a format such as flow chart or even links to resources explaining</p>	<p>Noted.</p> <p>This information is included in our Victim and Witness Policy. Links to this policy are provided within the Stalking Policy.</p>

the criminal justice process which would be helpful for those reading the policy who would have no prior knowledge of the process. Clear, concise information will not only help minimise distress for victims going through the criminal justice process, but also help dispel myths around the process, making the process more understandable to victims, their loved ones supporting them and for the wider general public.

Question 4

It is of vital importance for the wellbeing of victims and survivors of stalking are treated respectfully through a trauma informed process as they engage with the criminal justice system and staff of the PPS. Women's Aid understands that when engaging with the PPS, the victim is also simultaneously the witness in the case and can often be a re-traumatising experience for the innocent party in these situations.

For some victims and survivors, reading this policy may be the first time they have ever had to engage with the PPS and the wider criminal justice system. As referenced earlier in this submission, it is most likely the victim trying to gain some understanding of what is happening to them and to prepare themselves for the daunting nature of the criminal justice process.

To reflect this, accessing information linked and referenced to this document should be made as easy as possible, especially when the likelihood is that a member of the public will be accessing

Noted.

this policy online rather than a paper copy. Whilst this draft document does provide hyperlinks to different policies, it is important that any reference to another policy must include a hyperlink – for example, section 1.3.4 which talks about the PPS’ complaints procedure. Any engagement with victims and survivors must avoid unnecessary hurdles for this policy to be trauma informed in its approach, and making information clear, concise and accessible is an essential component to make this document meaningful in its commitment to victims and survivors.

It is also important that Women’s Aid stress to the PPS in this section of the importance of the appropriate applications to the court for enable victims and survivors to give their best evidence in criminal justice cases. Over many years, Women’s Aid have lobbied all aspects of the criminal justice system for the need for trauma informed procedures to help support victims and survivors and prevent unnecessary traumatisation. Given our vast experience of supporting women who have experienced traumatic behaviours such as stalking, it is essential we stress to the PPS the importance of the application for special measures as the default stance in cases of this nature. As referenced throughout this draft policy, victims of stalking are often absolutely terrified of their perpetrators and if victims think there may be a chance they might physically see their perpetrator they will be more likely to disengage with the process and not engage with the PPS in fear of the wellbeing and personal safety. Having the application of special measures in place as standard will show a

Noted.

<p>commitment to victims and survivors of stalking that the PPS is taking their wellbeing and personal safety seriously. Consequentially this will help foster better relations between the victim and the criminal justice process, helping the victim/survivor to give their best evidence possible during proceedings.</p>	
<p>A repeated theme that Women's Aid have heard from women we supported over many years is that they find the communication from the criminal justice agencies incredibly poor, which leads to them feeling unnecessarily distressed and more likely to disengage with the process.</p> <p>One woman remarked previously to the authors of this submission that 'she learned more about her case from the newspaper than she did from the authorities.' Many victims and survivors Women's Aid support often tell us that they do not receive adequate communication from the Victim and Witness Care Unit (VWCU) around their case, especially when being told if their perpetrator has been bailed or notifications regarding court proceedings. Many victims and survivors are not aware of the unit, it's responsibilities to the victim/survivor, or where to contact them. Whilst we appreciate their contact information is on the PPS' website, the inclusion of contact details in the wording of this section of the policy would be incredibly beneficial in removing barriers to information for victims and survivors. Having this contact information in the section, and explaining the unit's role, would show a commitment to victims and witnesses.</p>	<p>Noted.</p>

<p>We would also like to highlight the reference to specialised support organisations in section 1.4.5. Women's Aid is the largest specialist support service for women affected by domestic abuse and other forms of gender-based violence such as stalking in Northern Ireland. Each year we support thousands of women, many of whom are experiencing stalking behaviours from their perpetrators, overwhelmingly of whom are male ex intimate partners. Many victims and survivors of stalking behaviours would engage with Women's Aid before engaging with criminal justice agencies, as there is often the fear of engaging or what has happened to them not being taken seriously by these agencies. Women's Aid would therefore request that reference to support organisations being included in Annex D be made here, and at a glance of that section along may not make the reader aware that the contact information is already in this policy at the very back. Women's Aid would also like to request an amendment be made to our contact information page 51. Women's Aid Federation NI is the federal representative body for the Women's Aid services throughout Northern Ireland. WAFNI does not provide frontline support services as the representative body, and advising WAFNI's office number and email address is an unnecessary barrier to women accessing their local Women's Aid service.</p>	<p>Noted. PPS are unable to refer victims directly to Women's Aid services.</p>
<p>We would therefore request the inclusion the amendment of our information to read: "Women's Aid NI provide trauma information specialised support services for women, children and young people affected by domestic abuse and other</p>	<p>Noted and amended.</p>

<p>forms of gender-based violence. To find your local Women’s Aid service please visit: www.womensaidni.org”.</p>	
<p>Another key aspect would like to raise within this submission that would enhance the wider understanding, dispel myths and provide context on stalking cases would be the annual publishing of statistics around stalking cases that include notable characteristics such as gender, age, relationship between victim/stalker and case outcomes. A commitment to publishing statistics of this nature will only increase transparency and provide clarity on the wider context of these cases within Northern Ireland and help us understand and awareness for authorities on how this crime affects different societal groups, especially around the relationship between victim/stalker. There still remains a prevalent myth amongst the population that stalkers are often strangers, when we know this often not the case within our services at Women’s Aid, and in the wider understanding of stalking patterns³ across the UK.</p> <p>In order to bring wider understanding, provide transparency and show a commitment to understanding the wider context of this type of crime, Women’s Aid would strongly recommend that the PPS commitment in policy to publish statistics around victim/stalker relationship, gender, age and outcomes as just some examples to create better understanding of this type of behaviour within the Northern Ireland context.</p>	<p>Noted. The Department of Justice retain statutory responsibility for publishing this data annually.</p>

Many of the women in our services have had both negative and positive experiences engaging with the court system here in Northern Ireland. Some of these women have also given remote video evidence through vulnerable witness special measures in criminal court proceedings as they try to seek justice for the traumatising abuse they've experienced at the hands of their perpetrator.

When discussing the use of special measures in court proceedings, the feedback we routinely receive from women the option to access special measures is essential in domestic abuse, sexual offences and stalking cases, as these cases by their nature are incredibly complex, sensitive and need to be conducted within trauma informed boundaries.

For victims and survivors of stalking, the fear of seeing their perpetrator is real and terrifying for them, especially when often they have had to take measures in their own lives so their stalker cannot find them like changing jobs, moving addresses, changing their personal contact details, etc. The fear of possibly being seen by the stalker is a barrier to victims and survivors coming forward and cooperating with the criminal justice process. By automatically applying for special measures for victims of stalking, the PPS will be showing that they are in tune with the needs and wellbeing of victims in a trauma informed manner.

Special measures for victims and survivors of crimes such as stalking are essential in limiting the traumatising

Noted.

PPS have recently reviewed their internal processes around special measures. Guidance and training has also been provided for prosecutors.

impact the court experience can be for those trying to seek redress throughout Justice System.

Question 5

Within the context of the work of Women's Aid, the 'Rejected Stalker', as referenced in Annex C, is the most common type of stalker we see within our work. From the vast experience of Women's Aid, when a perpetrator of abuse loses control over their victim, they will try to regain their lost control through various stalking methods all designed to intimidate and frighten their victim to return to them. Some examples of how this manifest with the stalker would be:

- 'Love Bombing' the victim by sending parcels, food orders and letters directly to them to 'win' them back
- Turning up places they know the victim will be like their local supermarket, their public workplace, their child's school, etc.
- Attempting to monitor them through hacking into their digital platforms like social media, emails, cloud storage accounts and tracking apps like Strava.
- Placing hidden trackers on their car or inside other personal belongings like the lining of bags or coats used by the victim.

Noted.

In the section in this document, Women's Aid welcome inclusion of the explanation of stalking behaviours and how it does not

Noted.

have to be an 'in person' behaviour to count as stalking, especially in our increasingly digitised world. We also welcome in the inclusion of understanding that stalking behaviours can often be minimised as 'harmless' and how victims may not explicitly call these behaviours 'stalking' and that is why it is incredibly important that all those who engage with victims and survivors in a case's criminal justice journey receive trauma informed training to be able to effectively carry out their role when dealing with cases involving stalking.

What would be beneficial to explicitly acknowledge in this section is the prevailing myth that a stalker is a stranger to the victim. The prevailing myth of the 'stranger' stalking is one that public often perceive at the 'norm' when talking about stalking behaviours. This is due to a limited understanding which is perpetuated through popular culture and reporting of stalking stories by news outlets, often being relating to celebrities being stalked by strangers. It would be a good opportunity to highlight myths like these in this particular section of the policy, especially when the policy talks about there being no 'typical' stalking victim. It is often difficult for victim and survivors to relate what has happened to them, especially when it goes against previously held beliefs of what a 'stalker' and what a 'stalking victim' look like to the general public. To help with the public's understanding of the policy, it would be beneficial to explicitly say in this section that statistically a stalker is someone known to you for, in order to help victims and survivors recognise what has happened to them, which in turn will help

This is covered at para 1.3.2.

<p>them process what has happened and help to minimise re-rumination as their case progresses through the criminal justice process.</p>	
<p>Women’s Aid is also appreciative of the inclusion of the section specifically on digital stalking, as technology facilitated domestic abuse, and stalking is an issue we have seen increasing over recent years as women try to break from the abusive relationship. For the women we support, technology facilitated abuse, and stalking is unfortunately on the increase, especially as the technology itself – trackers and drones primarily being the most common – become more commercially accessible and cheaper to purchase. English domestic abuse charity Refuge reported similar findings in 2019, where 72% of women accessing its services said that they had been subjected to technology-facilitated abuse.</p> <p>The section specifically on Cyberstalking on page 7 is comprehensive and reflective based on the testimony from women engaged in Women’s Aid services throughout Northern Ireland. However, we would suggest the expansion of this section to include technology facilitated stalking, as the use of commercially available trackers, drones and battery-operated cameras are becoming more commonly used by stalkers.</p> <p>Due to ever evolving nature of technology facilitated stalking, it is important that all criminal justice partners including the PPS keep up to date with the latest methods as new technology enters the commercial market every year. The South-Eastern Domestic & Sexual Abuse Partnership</p>	<p>Noted.</p>

have a fantastic training programme on technology facilitated domestic abuse which Women's Aid would recommend to any PPS personnel working specifically on stalking cases. The use of technology facilitated stalking is something Women's Aid NI expects to see increased reporting of over the coming years, so it is essential that the PPS and other criminal justice partners are equipped and ready to react to newer methods of stalking by perpetrators.

Women's Platform

Comment

PPS Response

General comments: International obligations of the UK and mandate for change

Access to justice, including prosecution of perpetrators of stalking, is a core pillar of international human rights instruments. This policy is a welcome update and a core strand of effective implementation of the Protection from Stalking Act (Northern Ireland) 2022, as well as the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022.

These updates follow long campaigning from civil society and concern from international human rights experts, including the CEDAW Committee. For context, it is important to note that international human rights standards, in particular the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Council of Europe Istanbul Convention on taking action against violence against women, which is based on the European Convention on Human Rights, commit States Parties including the UK to take rigorous and effective action on all forms of violence against women and girls. Both are binding on the UK as a State Party to each Convention, and therefore provide a strong mandate for improved prosecution of domestic abuse. Importantly, these Conventions set out a rights based framework, which differs significantly from the current Test of Prosecution in Northern Ireland. It would be timely and welcome to further review this Test, as it in many cases does not adequately relate to stalking offences, creating situations where perpetrators of serious offences are

Noted.

not dealt with. In examinations of the UK under CEDAW, concern has repeatedly been raised about low prosecution rates for violent and sexual offences and the risk of protections of women and girls falling behind those available to women elsewhere in the UK.

The Istanbul Convention, in particular, integrates action against perpetrators as a core pillar, in addition to setting out comprehensive guidance on protection needed for victims/survivors, including child victims and witnesses. Requirements and guidance under this pillar stress timely investigations and access to immediate protection where required, and also underline the importance of a clear understanding of the structural dynamics of domestic abuse as a basis for investigation and prosecution. The Council of Europe has also recently published guidance on education for prevention under the Istanbul Convention, which emphasises gender equality and non-violent approaches, and provides examples of good practice from a number of countries as well as a checklist for developing national good practice.

Specifically, the Istanbul Convention commits States Parties to protecting complainants whose immigration status is linked to the perpetrator. It is vital that this is clearly communicated to migrant communities, considering the significant barrier immigration status and reporting to the Home Office constitute for victims/survivors in this community.

CEDAW General Recommendation 35 emphasises that the judicial system must

apply law free from gender stereotypes and discriminatory beliefs and practices. In particular, it underlines that the standard of proof typically required may affect women's right to equality, and that this must be addresses. This is particularly relevant relating to the Test of Prosecution, but also the evidence accepted and utilised during prosecution decisions and subsequently trials. Above all, this provides a mandate for new types of evidence that should be considered in prosecution; as noted elsewhere in this response, witness statements may be difficult or impossible to obtain due to coercive control offending that stops a victim/survivor from disclosing abuse of any kind to an outside person, and consideration should be given to other mechanisms, such as impact statements on health, working life or personal life. It should be noted that GR35 also requires States Parties to allocate 'adequate funding' to judicial structures.

The General Recommendation requires States parties to CEDAW to 'have an effective and accessible legal and legal services framework in place to address all forms of gender-based violence against women committed by State agents, whether on their territory or extraterritorially.' The Recommendation also requires State parties to ensure that state actors have appropriate training to effectively implement legislation and policy, including prosecuting offences. It is important that this guidance is underpinned by a comprehensive training programme for PPS case officers and prosecutors, to ensure a clear and shared understanding of the dynamics of

domestic abuse. In particular, it is vital to integrate victims/survivors and their lived experience in training and capacity building, considering the extremely complex impacts of domestic abuse on victims/survivors. While the consultation document sets out some of this, direct engagement with concrete examples is essential to enable professionals to meaningfully understand the phenomenon of stalking and how pervasive impacts are on all aspects of the victim/survivor's life and identity.

Comments on provisions	
<p>Section 3.1 - information provided and definitions.</p> <p>The information in the document is sufficient as an introduction, but as noted above, all PPS staff and prosecutors should have access to further detailed information and capacity building to ensure the full complexity of stalking can be taken into account when assessing files and subsequently when deciding on or pursuing prosecutions.</p> <p>While the overview of impacts of stalking included in the document is very helpful, it would be strengthened by including wider impacts on victims' families and society, which include for example loss of workforce and skilled professionals, economic costs of lost economic output as well as investigating and prosecuting offences, and physical, mental and social impacts on families including lifelong impacts on children who may experience significant fear and intimidation.</p>	<p>Noted.</p> <p>Prosecutors have additional, detailed internal guidance on stalking to assist decision making and have also been provided with relevant training.</p>

<p>With regard to the definition, it is helpful to see reference to the Suzy Lamplugh Trust, but concerning that no clear definition is available. It would be important to specify this to assist with consistent application of the legislation, and there is potentially a role for the PPS in highlighting this. An appropriate definition would reflect the referenced definition.</p> <p>It is helpful that this section clearly defines that stalking can occur in intimate relationships, and as part of domestic abuse. Stalking is a significantly more common experience than currently available official statistics show, and therefore has significant impacts on women and girls, who are disproportionately targets of stalking. Significant detail on this is set out in the findings of a survey undertaken by Women's Policy Group on the experiences of violence among women and girls in Northern Ireland.</p>	<p>Noted.</p>
<p>3.2 Trauma informed practice</p> <p>It is welcome and positive that the policy explicitly refers to trauma informed practice. Stalking is very personal and associated with significant trauma, and it is vital that this is taken into account throughout the prosecution process, as well as during the initial investigation phase.</p> <p>Specific care must be taken when dealing with cases involving individuals with insecure immigration status. There are major barriers to reporting among migrant, asylum seeking and refugee communities due to fear about deportation or migration detention, and this is often used by</p>	<p>Noted.</p>

perpetrators as a specific form of abuse, which often fundamentally silences victims/survivors. Meanwhile, in particular women from ethnic minorities wearing specific cultural or religious dress are very visible in society, and at risk of 'incidental' stalking while going about their daily lives, which may be part of a pattern of xenophobic harassment and hate crime. It would be helpful if the PPS would engage with relevant organisations to enable appropriate assurance to be provided to migrant communities, and ensure people from all backgrounds are aware of the support and protections available, including translation and court support. Strengthening signposting between agencies and organisations is also vital to enable all victims to come forward and report offending with greater confidence.

This is particularly important to discourage specific offending against a very marginalised population, while also protecting newcomer communities, as well as contributing to address trafficking.

3.3. Test of prosecution and decision not to prosecute

The overall prosecution rate of violent offences disproportionately affecting women and girls is low, with the conviction rate even lower. While stalking may be easier to evidence than many other types of offences, it is vital to understand that this type of offending is based on power structures and seeks to undermine the victim, their confidence and credibility. Mechanisms to address this when investigating and prosecuting are vital, and in this regard it is crucial that the victim's evidence may be sufficient.

Noted.

<p>Longer term, a review of the Test would be helpful for these types of offences; it is important to note that this can be achieved without prejudice to the rigour of the legislation or judicial process.</p> <p>The decision not to prosecute is significant for victims, and in particular their mental health and confidence in institutions. Therefore, sharing clear and timely information on reasons, alternatives and options with the victim is vital, and the comments under point 3.4 below develop this further. In light of the nature of stalking offending as a continuum of oppression and coercive control, consideration should also be given to how cases can continue where victims withdraw cooperation, as this may not be voluntary. Options are given in the Istanbul Convention, and are also referenced in the policy on prosecuting domestic abuse, which remains relevant as a context to this policy.</p>	<p>Noted.</p>
<p>3.4 Supporting victims and witnesses</p> <p>It is helpful that this chapter sets out an overview of support mechanisms available to victims, from the outset. This indicates a basic understanding of a victim's experience, and provides an important starting point for building trust with victims/survivors, many of whom lack any sense of agency and control over their own actions, and as noted in the draft policy, may be reluctant to go ahead with a complaint due to factors arising from this experience. It would be important to work with relevant organisations, such as Women's Aid, to ensure clear information in easy read formats is available at</p>	<p>Provision of more accessible information is currently being considered, for example by way of supplementary guidance, videos / animations etc.</p>

community level on the processes and procedures, in particular protections available for victims/survivors who either have experienced or are worried about intimidation or further abuse.

However, it is essential that proceedings do not completely rely on victim/survivor active participation, as this would in effect encourage intimidation as a mechanism for preventing prosecution.

Access to timely and easy to understand information is vital to support victims throughout the prosecution process. Lack of trust is a key issue and meaningful engagement with victims/survivors of male violence more broadly; specifically, the WPG survey indicates that women and girls feel reporting any violence will not be taken seriously, and that this is based both on experiences of individuals and hearsay, which significantly affects women's willingness to report. In addition, LGBTQI+ communities are both more likely to experience violence and less likely to report it than other population groups. Recent evidence from Northern Ireland by The Rainbow Project shows that over 70 per cent of LGBTQI+ individuals experiencing domestic abuse do not report it to police, for reasons including concerns about how this would be perceived and how they would be met.

Meanwhile, evidence from the Sexual Offences Legal Advisor scheme, introduced following a review of serious sexual violence cases, shows that support from this type of service provided by the voluntary sector has been critical to many victims to allow them to deal with police,

Information has been provided at section 3.9.

Noted.

Noted.

and subsequently with the PPS and courts in cases that have progressed this far.

The Women's Policy Group survey also confirms findings from elsewhere in the UK that long delays in the justice system deter women from coming forward to report crimes. Evidence from this survey, as well as from other work with victims and survivors, shows that many women find the lengthy delays traumatising, and also experience retraumatisation during the process, as they are asked to repeat their story often multiple times. Lack of access to information about their case adds to stress, and many women choose to withdraw their case as a result. IT is essential to consider this throughout the process, and also in budgets for the PPS, as anecdotal evidence indicates that many victims do not get regular, or sometimes any, updates from the PSNI, PPS or courts on their case, including on a decision not to prosecute.

Evidence from the Northern Ireland Victim and Witness Survey also highlights issues in relation to court proceedings. Only just over half (56%) of respondents reported being well informed about their case, while (58%) of respondents whose case had been dropped had received confirmation from the PSNI or PPS to explain why. Many respondents (18% overall and 24% of victims) also reported that they had not been clear about the court proceedings, and only two thirds were satisfied with the experience; as one example, the majority of witnesses (80%) had not been told they might not be required on the day of the trial, and the majority were not called to give evidence. Perhaps most tellingly, less than half of those who ultimately gave

Noted.

evidence in court said that they would do it again.

In addition, only 80% of respondents knew the outcome of their case and only 57% of victims knew the sentence, while less than half felt that the sentence was fair. No breakdowns by gender, or by crime type are provided, which limits further analysis of the data.

Conclusion

This policy is a helpful start to creating clarity on how stalking offences are prosecuted under the new Act, and for building capacity among professionals involved in investigating, assessing and prosecuting cases. It demonstrates a core understanding of the complexities of stalking, but the following key amendments would be useful:

1. Referring to international human rights law as the overarching mandate.
2. Building capacity of professionals involved in investigating, assessing and prosecuting cases to fully understand the complexities of domestic abuse, in particular through and gaining an insight into the lived experiences of victims/survivors.
3. Working with organisations such as Women's Aid and migrant groups to reach out to communities for building trust and relationships, and ensuring the information is accessible to all communities.

Noted.

Women's Policy Group

Comment	PPS Response
Question 1	
<p>Overall this section is comprehensive however we do have grave concerns over some parts of it, and others would benefit from clarification.</p> <p>At para 2.2.3 there is a useful list of types of behaviour that may constitute stalking behaviour, which is valuable, as is the point at 2.2.4 that points out that this is not an exhaustive list.</p>	Noted.
<p>At 2.2.6 there are examples of case law that illustrate what might be taken as a "course of conduct". These are helpful, but ideally would be placed in more context - perhaps examples of where a "course of conduct" might not be illustrated, or with examples of what counts as distinct incidents, a relevant lapse in time between actions, and what "sufficient gravity" might mean in terms of types of offence.</p>	Noted.
<p>Regarding the "reasonable person" test that is outlined here, it is worth saying, as we have said before, that we have concerns that this concept is not well understood and that its application can cause victims of crimes to feel as though they are being deemed unreasonable.</p>	Noted.

In addition at 2.2.19 there are details of the statutory defence to a charge of stalking, that outlines ways that the defendant can prove that they were not stalking but were engaging in reasonable behaviour or carrying out statutory duties. While much of this is entirely acceptable, there are concerns that some parts of it are rather too open to abuse by potential offenders. For example, the defence applies to neighbourhood watch members, and to private detectives. This allows for individuals who wish to stalk someone to ingratiate themselves into unregulated volunteer programmes or into private enterprises in order to facilitate their stalking, or to rely on somebody else, or to pay somebody else, to monitor someone on their behalf. In research carried out by the WPG with regards to VAWG and specifically stalking, we heard accounts of the use of third parties to facilitate stalking, and it is a known element in, for example, cases where the perpetrator is a member of or associated with paramilitary organisations. This part of the defence should either be reconsidered or should come with caveats - as it stands it is wide open to abuse.

Noted.

Question 2

Overall, this section accurately outlines the issues considered by prosecutors in domestic abuse cases. With that said, this is the stage of the process at which the most sensitive decisions are taken and the greatest risk of upsetting outcomes – at least from the PPS – arises. For this reason it would be valuable to take extra care and to ensure

Noted.

<p>that some details are expanded to provide reassurance for victims. These are outlined below:</p> <p>Clarity is recommended with regards to risk assessments at 3.8 and at 3.9.6 which say that these “usually” and “should” take place. Mindful that these are police risk assessments and not the work of the PPS, it would be helpful to clarify how often these do not happen, under what circumstances they may not be done, and under what circumstances they will not include any risks around children.</p>	<p>Noted.</p>
<p>With regards to diversionary disposals; the WPG shares the view of Women’s Aid that this approach is not appropriate for the kinds of offences that are typical of VAWG; domestic abuse, sexual violence and stalking fall within this category.</p> <p>Already there is an inequality in terms of access to justice and a fundamental power imbalance between victim and abuser, and a high propensity for escalation or reoffending. This should be reconsidered.</p>	<p>Noted.</p>
<p>At 3.9.2 a helpful list of reasons a victim might withdraw their support for prosecution is given, but we feel it would benefit from the addition of a consideration of paramilitary intimidation. WRDA research and work by Women’s Aid NI has demonstrated that this is a real phenomenon in the lives of women seeking to escape domestic abuse and who may experience stalking as they do so and, because of the nature of paramilitary control of entire communities, survivors may fear consequences from</p>	<p>These comments have been reflected in the list at para 3.9.2.</p>

<p>their abuser's associates even if their abuser is themselves imprisoned for a lengthy period of time.</p> <p>In the same list, the mention of a fear of coming face to face with one's abuser in court is another reason to make changes to the provision of special measures as standard, while the fear of their abuser's associates adds credence to arguments to limit the use of the public gallery in these cases</p>	
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Question 3	
<p>This section is helpful, however it has a number of sections that need to be clarified and there are confusing acronyms.</p> <p>At 4.1.1 it would be helpful if the policy outlined the kind of considerations that contribute to a police decision to keep a defendant in custody.</p>	<p>Please provide further information.</p> <p>This is a police decision and does not form part of this PPS policy.</p>
<p>At 4.1.3 and again at 4.6.1 and 4.6.3 the VWCU case officer is mentioned but again there is no explanation as to who this is, what their role is, or whether they are an officer of the court or a police officer.</p>	<p>The role of the Victim and Witness Care Unit (VWCU) is outlined at section 1.5</p>
<p>At 4.2.3 the policy states that prosecutors will "...make every effort to make themselves or another representative available" to answer the victims questions. While this is of course appreciated, anecdotally we know that this happens only occasionally. It would be helpful to point those who do not get this support to the Victim Charter and/or support organisations.</p>	<p>Noted.</p>

<p>Similarly at 4.3.2 it says that, when considering accepting a plea to alternative choices, prosecutors will discuss this with the victim "where possible". It is not clear why it would not be possible to do so, and it would be preferable if this was an obligation.</p>	<p>Noted.</p>
<p>Also at 4.3.2, the policy says that the prosecution will explain their willingness to accept a plea to an alternative charge in open court "unless there are exceptional circumstances". It is important that examples of what could constitute "exceptional circumstances" in cases such as these.</p>	<p>This will vary depending on the particular circumstances of each case. Therefore it is not possible to provide examples here.</p>
<p>Para 4.4.4 includes mention of Judges considering "information about the previous good character" of the defendant. While the WPG supports calls to end the practice of accepting these testimonies on the grounds that they do not constitute evidence, the policy says that prosecutors may object to anything "misleading, untrue or unfair". The latter in particular is subjective and should be explained in more detail.</p>	<p>Noted.</p>
<p>At 4.7.2 it is explained that "repeat perpetrators and serious stalking offences" may be heard at Crown Court with other cases at Magistrates Court. First of all, since stalking definitionally involves repeated unwanted contact, surely all offenders are repeat offenders. Secondly and more pressingly, there is no account whatsoever of what accounts for a serious stalking offence. We also have concerns, outlined below in response to question below, that not every offence is being appropriately charged.</p>	<p>Noted.</p>

Question 4	
<p>Overall this is clear however we have the following concerns.</p> <p>At 5.1.3 while discussing special measures we once again urge the PPS to clarify for victims what criteria the judge uses to make a decision about granting special measures. (Borrow text from DA policy consultation). We know that fear of the perpetrator is a significant cause of attrition, and there is a need to account for why special measures would not be granted in these cases if reducing attrition is a goal of the PPS and CJS generally.</p>	<p>Noted.</p>
<p>At 5.2.1 while discussing Remote Evidence Centres it mentions two locations. Our understanding from DoJ officials is that there are now 3 in operation; Belfast, Craigavon and Derry/Londonderry. If this is correct this section should be updated.</p>	<p>There are currently two official REC locations in Belfast and Craigavon. There is a facility in Derry/Londonderry, where victims can give evidence remotely from a venue near to the courthouse. This is a local arrangement and does not fall under the REC pilot scheme.</p>
<p>Section 5.6 contains information about ASSIST NI, however it does not contextualise it at all. This is the policy for prosecuting stalking, and Assist supports victims of domestic and sexual abuse. Does this mean to imply that Assist can support survivors who experience stalking as part of a course of Domestic Abuse, Sexual Abuse, or both, but not other cases of stalking? If it not clear, and it should be.</p>	<p>ASSIST NI can provide support to victims of stalking committed by partners/ex-partners and family members.</p>

Question 5	
<p>Yes this is useful.</p>	<p>Noted with thanks.</p>

Question 6

We have noted above where technical terminology has been used, but overall the issues that require more clarity are where vague language is used (“should” “where possible” “usually” etc) that offers no definitive answers to survivors or members of the public, and where decisions are declared the purview of individuals outwith the purview of the PPS (usually a Judge or police) but with no description of how decisions are reached, no links for future information, no attempt to explain how these vital issues are decided. These approaches have the effect of making the justice process off-putting and even frightening for survivors and will worsen attrition.

The language used throughout the policy reflects our duties under the Victim Charter.

Question 7

To a large extent, this has been achieved, however there are areas, as outlined in response to question 6, where the language should be a lot clearer and a lot more definitive. This should be clarified and made a lot clearer.

Noted.

Question 8

We share the concerns of Women’s Aid Federation NI with regards to the number of cases prosecuted as harassment that perhaps should be prosecuted as stalking.

Various organisations that are part of the Women’s Policy Group campaigned for stand-alone stalking legislation, and we carried our original research to ensure

PPS and PSNI are currently undertaking a joint quality assurance exercise focusing on harassment cases to ensure that the stalking offence is being used in appropriate cases.

that the eventual legislation was as well-informed and complete as possible. This is because we recognised then, and now, that harassment and stalking are fundamentally different experiences from the point of view of the victim/survivor.

This fact is also apparently recognised by the draft policy, which says “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.” Stalking does not follow that pattern. Therefore it is very concerning that, two years after the commencement of the stalking legislation for which we have worked so hard, so few cases are properly prosecuted. According to the PSNI’s Crime Statistics Bulletin for 2023-2433, less than 2% of cases classified under the ‘Stalking and Harassment’ umbrella category were actually prosecuted as stalking. The vast majority (approximately 73%) were classed as ‘harassment’ cases, followed by Malicious Communications (approximately 19%) cases.

It is not entirely clear whether these statistics are telling us that stalking is relatively rare, and that most of these crimes are truly harassment, but it does seem very likely that many stalking cases are being mis-categorised. This is important for much more than for the gathering of accurate statistics, it is important because the correct categorisation and proper prosecution is vital for protecting the victims of this truly

devastating and deeply harmful crime - particularly as it intersects with other forms of abuse.

To conclude, the WPG has serious concerns about the rates of prosecution for stalking offences in particular, and we have concerns also about the fact that some defences are allowed that will facilitate the use of third parties to carry out or to continue stalking. We believe that there are areas where the language of this policy could or should be much clearer, and we expect to see these amended in the final policy document.

Noted.