



Paladin Briefing for the Home Office Consultation on Orders for Stalkers

1. Introduction

Two women a week are murdered at the hands of their current or ex-partner. Many were stalked prior to their murder. This number of women being killed has remained static for the last decade. Analysis of the Domestic Homicide Reviews (DHRs) reveal that when domestic violence, stalking and coercive control co-occur, these are the **most** dangerous of cases, where women and children are more likely to be killed. Analysis of DHRs also show that many of the perpetrators have a history of abuse, including stalking, and have damaged multiple victims across their life course and have breached conditions and orders put in place. Many have been allowed to escalate their behaviour and, in some cases, the history only becomes apparent at court or at a DHR, which is far too late. Examples include:

Case Study: Jayden Parkinson murdered by Ben Blakeley

Ben Blakeley murdered his pregnant ex-girlfriend 17 year old Jayden Parkinson. Blakeley strangled and buried Jayden in his uncle's grave in December 2013. He has a history of serial abuse. The Prosecution Lawyer stated how Blakeley was violent and controlling during all his relationships. Kirsty Penford was 16 years old in 2007 when she dated Blakeley. When she was seven months pregnant he threw her down the stairs in the flat. He threatened to stab her in the stomach to kill the baby. He then moved onto Katie Gale and she described in court that he "punched me, kicked me in the head, bit my face. To teach me... he would cling onto my cheeks to leave marks." He told Katie he had killed her cat; she reported the abuse but was too afraid to file a formal complaint as she did not wish to 'get him into trouble'.

Case Study: Tracey Morgan was stalked by Anthony Burstow

Tracey Morgan was stalked by a work colleague Anthony Burstow for nine years. He planted listening devices, broke into her home and persistently followed her wherever she went. Tracey lost her confidence, her marriage and her social life. Burstow has been in prison since 2001 for the attempted murder of another woman, who he had been stalking simultaneously. He also changed his name by Deed Poll.

Case Study: Caroline Finegan murdered by Ryan Ingham

On July 7 2014 Ingham was sentenced to a 16 year minimum sentence for murdering his fiancée Caroline. A few months before Caroline died Ingham attacked her so badly she needed hospital treatment. He killed her by pushing her to the ground and punching her in public at a bus station in January. However, it was only at court, the victim's family learned he had 23 convictions, many for violence towards other partners dating back to his teenage years. Ingham had first been charged with common assault in 2005 when he punched an ex-girlfriend in the face and body. Later that year he attacked the same woman who was just 17 at the time. Three years later he was charged with common assault on his own parents along with another partner. He was convicted twice more of attacking and 'harassing' her, including threats to kill her unborn child and holding a knife to her neck. But Caroline would not have been able to learn about his history using the Domestic Violence Disclosure Scheme - Clare's Law – because he was using a false name.











Case Study: Jane Clough murdered by Jonathan Vass

Jane Clough, an A&E nurse warned police that her violent ex-partner Vass was going to kill her when she separated from. He had raped her repeatedly and assaulted her. She was terrified when he was bailed and moved into her parents house with her baby. He started stalking her on Facebook. He waited for her to return to work at the hospital and stabbed her 71 times in the car park. He had a history of abusing women.

We know through research, including current DHRs, that many domestic violence and stalking perpetrators are serial¹, moving from one abusive relationship to another (Richards 2004) and such offenders have often used or threatened violence towards two or more unconnected victims (ACPO 2009). Police research shows that out of 356 perpetrators who re-offend, 18% did so against a different partner (Hester and Westmarland 2007).

Many studies document the links between different forms of abuse and violence including the links between domestic violence and stalking (Sheridan and Davies 2001), domestic abuse and child abuse (Hester, Pearson, Harwin and Abrahams 2007; Richards, 2004; Plotnikoff and Woolfson, 1998), domestic rape and stranger rape (Richards, 2004; Scully 1990), forced marriage and intimate partner violence (Home Office, FCO and ACPO, 2005). Domestic violence is about power and control and if it gets the perpetrator what they want they will continue their abusive behaviour. This means that more and more primary, secondary (children) and tertiary (future) victims accumulate and the cost is counted in both lives destroyed and damages and financial costs. This also places a huge financial burden on services and the Criminal Justice System.

The ACPO (2009) paper entitled 'Tackling Perpetrators of Violence against Women' concluded that currently no perpetrator order exists which deals with the full range of offences against women and girls; affords protection to future victims; and imposes a positive obligation on a perpetrator (e.g. to change their behaviour, notify police of change of address or move and/ or attend treatment programs).

The All Party Parliamentary Stalking Law Reform Inquiry report (2012) also recommended a register for serial stalkers. The Inquiry heard evidence from police, probation, victims, victim's families, the National Stalking Helpline, Women's Aid, the Victim's Commissioner and other key professionals across 15 months and resulted in Prime Minster David Cameron announcing on March 8 2012 that stalking would become a criminal offence.

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Directors: Laura Richards, Rachel Horman, Allan Aubeelack, Zoe Dronfield, Shonagh Dillon, Baroness Jan Royall
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¹ 'Serial' is defined as a perpetrator of violence against women where the perpetrator is alleged to have used/threatened violence against two or more victims who are unconnected to each other (as opposed to repeat offending against the same victim or persons in the same household). Serial is defined not only in relation to domestic violence cases, but may also be applied more widely to include perpetrators of more than one form of violence against women and girls, where this involves two or more unconnected victims (Tackling Perpetrators of Violence Against Women and Girls, ACPO Review for the Home Secretary 2009).





HMIC (2014) also recently found that despite our knowledge, research base and understanding increasing about domestic violence and stalking, there was very little evidence across police services of proactive targeting and risk management of these perpetrators, which is very concerning. Despite continuous effort by subject matter experts (Richards 2003, 2004; Richards, Letchford and Stratton 2008) as well as ACPO, who have highlighted this over the years very little is happening practice and too many perpetrators are getting away with it.

A piece of paper on it's own will not protect a victim from a fixated and obsessive stalker. We know this from our cases. Restraining orders are continuously breached by stalkers and breached multiple times and not enforced. The CPS fail to charge for breaches in addition to the stalking too. Our report 'Stalking Law Two Years' published in March 2015 found that 47% went on to re-offend when charged with a breach.

Cultural change is desperately needed to ensure that the perpetrator is placed at the centre of the investigation and risk management plans and strategies and <u>not</u> the victim. We continually see this in practice as well the Multi Agency Risk Assessment Conference (MARAC). This has been identified by HMIC, ACPO and the Domestic Violence Law Reform Campaign team (Paladin, Women's Aid and Sara Charlton Charitable Foundation http://paladinservice.co.uk/harassment-legislation/domestic-violence-campaign/) and we believe the legislative framework needs to be addressed to ensure this cultural change happens.

Currently there is no existing framework which can track or monitor serial domestic violence perpetrators and stalkers. Rather than the perpetrator being effectively controlled and managed, oftentimes it is the victims who are forced to modify and change their behaviour and even flee their homes and disappear themselves in order to stay safe, which is unacceptable. This is the reason why refuges are in demand and victims continue to be moved around the country. MARACs also tend to focus on the victim too rather than the perpetrator. We track victims when they move but not the problem – the perpetrator. This needs to change. It is the perpetrator's behaviour that *is* the problem. There needs to be a positive obligation on them to change their behaviour and take responsibility. They are the ones who need to be tracked, supervised and managed and *not* the victim.

This paper lays out all current remedies available, challenges and gaps in practice and recommends a new order and registration process that places a positive obligation on perpetrators and a mechanism to manage and monitor them.

Acknowledgement

We would like to thank and acknowledge DCI Gary Biddle, Dangerous Offender Manager and Det. Supt Ewen Wilson, Head of Public Protection from Essex Police and Keith Duke, ViSOR registrar from Lincolnshire Police for contributing to this paper.

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2. Current Civil Remedies Available

Domestic Violence cases/ cases where Stalker is an 'associated person'2

2.1 Non-Molestation Order, under the Family Law Act 1996

Non-molestation orders prohibit a person from molesting another person. This can be applied for by the victim or a court can make apply for them in Family Court proceedings. An order can be made for specified notice or until further notice. It is a criminal offence to breach a non-molestation order, with a possible sentence of up to five years imprisonment.

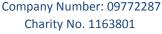
Challenges in Practice:

- Obtaining a non-molestation order requires a victim to go through the civil justice system. In our
 experience this in itself often places victims under considerable stress and pressure. Many
 victims have often already gone through the Criminal Justice System and therefore this often
 leads to secondary victimisation.
- Legal aid cuts have also had a substantial impact on victims' experience through the civil court process. As a result of the cuts, it is far more likely that perpetrators will be cross-examining the victims themselves in civil court which wouldn't be permitted in criminal court.
- The length of time it now takes to have legal aid approved for an injunction can often take weeks, which places the victim at substantial risk in the interim.
- There is a substantial variance in the wording of non-molestation orders from court to court; some will prohibit perpetrators from "intimidating, harassing or pestering" whereas many judges refuse to do this as it's "too vague" and simply prohibit approaching the house and communicating with the victim. This means they can then follow and stalk the victim without breaching the order. Too often Judges are reluctant to prohibit the perpetrator from approaching the victim as they say it could be occur due to happenstance e.g. in supermarkets, in contradiction to bail conditions which generally prohibit this.

2.2 Occupation Order, under the Family Law Act 1996

Occupation Orders exclude an individual from their home (or a part of it); an application can be made by an 'associated person'. The courts will apply the 'balance of harm' test to see which individual will be most at risk if the order is made or not. An order can be made for specified notice or until further notice.

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² Associated Person as defined in FLA 1996, Current or former partner, cohabitants or former cohabitants, relatives, or persons who live or have lived in the same household, otherwise than merely by reason of one of them being the other's employee, tenant, lodger or boarder.





Challenges in Practice:

- The power to make Occupation Orders only applies to the family home or a home intended to be the family home. The Order, for example, would not apply to a victim's new home; the victim would therefore need to get a provision within a non-molestation order for that.
- Whilst the victim does not need to have home rights to apply for the Order, the lack of them will restrict the length of the Order.
- Often we see Orders which will prohibit a victim and perpetrator from certain spaces within the home at certain times. This only serves to impose restrictions on the victim and does not take into account the dynamics of coercive control in domestic violence.
- Breach of an Occupation Order is not a criminal offence. However, the Court has the ability to attach a 'power of arrest' to an Occupation Order if the Court considers that the circumstances warrant it.

2.3 Domestic Violence Protection Notice and Order (DVPN/O), S.24 to 33 of the Crime and Security Act 2010

Domestic Violence Protection Notices and Orders are a new power that closes a gap by enabling the Police and Magistrates to put in place protection in the immediate aftermath of a domestic violence incident. A DVPN is the initial Notice issued by the police to provide emergency protection to an individual believed to be the victim of domestic violence.

This Notice, which must be authorised by a police superintendent, contains prohibitions that effectively ban the suspected perpetrator from returning to the victim's home or otherwise contacting the victim.

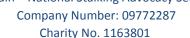
A DVPN may be issued to a person aged 18 years and over if the Police Superintendent has reasonable grounds for believing that:

- 1. the individual has been violent towards, or;
- 2. has threatened violence towards an associated person, and;
- 3. the DVPN is necessary to protect that person from violence or a threat of violence by the intended recipient of the DVPN;

The associated person mentioned above does not have to consent to the issuing of a DVPN or DVPO.

Following an alleged breach of the DVPN, the police may arrest the individual without warrant and hold them in custody pending the Magistrates' Court hearing of the DVPO application; this hearing must take place within 24 hours of the arrest for the alleged DVPN breach.

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Challenges in Practice:

The breach of a DVPN is a civil breach and therefore has limited impact in reality. Evidence from
regions where DVPNs have been trialled has shown that breaches are not being effectively dealt
with. In some cases as little as a £50 fine has been sanctioned, which is unlikely to act as a
deterrent.

Recommendation: The Government consider making this a criminal breach to ensure effective sanctions.

2.4.Domestic Violence Protection Order (DVPO), S.24 to 33 of the Crime and Security Act 2010

Before the DVPO there was a gap in protection. This was particularly the case where Police were unable to charge the perpetrator due to lack of evidence, therefore unable to provide victim protection through bail conditions. The obtaining and granting of injunctions was also not immediate. Within 48 hours of the DVPN being issued (excluding weekends and bank holidays), the Police must submit an application to the Magistrates Court for the DVPO. The Magistrate can make a DVPO if two conditions are met:

- 1. The court is satisfied on the balance of probabilities that the recipient has been violent towards, or has threatened violence towards, an associated person;
- 2. The court thinks that making the DVPO is necessary to protect that person from violence or a threat of violence by the recipient.

With DVPOs, a perpetrator can be banned with immediate effect from returning to a residence and from having contact with the victim for up to 28 days, allowing the victim time to consider their options and get the support they need.

Challenges in Practice:

- Whilst a DVPO could be issued in domestic violence cases where stalking co-occurs, it is not applicable in all other cases of stalking. Therefore a gap still exists for victims of stalking.
- Obtaining a DVPO within the 48 hour window may prove difficult in practice, especially given the
 practicalities of shift work, which renders it too difficult to obtain all the paperwork and get into
 court with that 48 hour period.
- Where there are grounds for a DVPO there would likely be grounds to have arrested and placed the perpetrator on police bail, as it requires reasonable grounds for suspecting that the perpetrator has been violent or threatened violence.

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A breach of a DVPO is also a civil breach and not a criminal breach. This again means limited
effective sanctions where offenders do not adhere to the conditions of the order. Sanctions
have to be effective otherwise there is no incentive for the perpetrator to adhere to the Order
and if they are not enforced victims lose confidence in the system.

Stranger and Non Intimates (Non Domestic Violence Cases)

2.5. Protection from Harassment Act Injunctions, under the Protection from Harassment Act 1997

Any person can make an application to the high court or county court to make an order for the purpose of protecting a person from conduct that amounts to harassment or will cause a fear of violence. Injunctions can regulate behaviour and movement, i.e. exclude an individual from an area. An order can be made for specified notice or until further notice.

Challenges in practice:

There is often poor advice given to victims about being able to obtain injunctions under the PHA
in 'stranger stalking case'. Often victims are not informed that this is an option available to them
when the perpetrator is not an 'associated person' and a criminal remedy is not possible.

3.Current Criminal Remedies Available

3.1. Restraining Orders, Protection from Harassment Act 1997 as amended by Section 12 Domestic Violence, Crime and Victims Act 2004

An application can be made to the High Court or County Court to make an Order for the purpose of protecting a person from conduct that amounts to harassment or will cause them to fear violence. Orders can also be made on acquittal if the court considers it necessary to protect the person from harassment or fear of violence. Injunctions can regulate behaviour and movement, e.g. exclude an individual from an area. An Order can be made for specified notice or until further notice.

Challenges in practice:

Criminal courts often do not grant restraining orders especially if the perpetrator has stated that
they are in touch with the victim/or seeing the children or getting back together with the victim,
even though this information may not have been verified by the CPS with the victim, who may
or may not be present at court.

 We have seen many examples of restraining orders which contain provisions within them for contact with the children on certain days even where there has previously not been any. Again oftentimes this information has not been corroborated by CPS with the victim.

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Other challenges in practice:

- Above injunctions can be used for repeat offenders, but does <u>not</u> apply if the perpetrator enters
 a relationship with another woman. Given that many offenders are repeat offenders given the
 serial nature of abuse and future victims are left unaware and unprotected.
- It is a real challenge to apply the Orders to other forms of violence against women and girls, including stalking, so-called honour based violence, child abuse, and trafficking for example.
- These Orders do not impose obligations for treatment and therefore there is, no duty on the
 perpetrator to modify/change their behaviour. They just continue moving from relationship to
 relationship and creating multiple victims in most cases, as well as secondary victims (children)
 and tertiary victims (future).
- There is also an onus on the victim to report all breaches, rather than any proactive monitoring
 and supervision of perpetrator. It should be the duty of the state in serious cases to proactively
 monitor and supervise dangerous offenders, just like sex offenders.
- Currently there is no registration component. There is no duty on the offender to notify police
 when they move to a different area, change their name (many stalkers do), go abroad, form new
 relationships etc. Therefore currently their offending history does not follow them, which is a
 very real gap in intelligence and public protection. Histories now follow victims via the MARAC
 process but we should be tracking and monitoring the perpetrator when they move area.
- There continues to be an emphasis on the victim to change and modify their behaviour to protect themselves and their children, which is unacceptable given that they are not the problem, the perpetrator is. Victims have reported that they feel restrained rather than protected by the orders, i.e., where they are able to move to because the Order does not cover the area. Given the dynamic of violence against women is often one of coercive control, as a result, victims find themselves unable to break away due to the limitations placed on them through existing Orders.
- Many Orders are poorly written and perpetrators often look to manipulate and exploit gaps in the Order. For example, we have seen where orders may have 100 meters restriction or exclusion zone and the perpetrators will appear 101 meters away from the victim and therefore just outside the restraining order zone.
- Light touch sanctions and short and inappropriate sentencing tends to be the norm when breaches happen. In some of our cases the perpetrator has received as little as £50 fine for a breach. This often results in the perpetrators feeling they are able to act with impunity.
- Perpetrator programmes are rarely used by courts following domestic violence and or stalking

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offences or breach of protective Orders.

- Despite a maximum custodial sentence of five years in several of the above Orders, we have yet to see anything close to that in reality. In fact more often we see multiple breaches that are <u>not</u> enforced. Or the CPS may pick and choose which breach to prosecute giving a false picture of what is happening as well as it looking innocuous and unremarkable out of context of all the breaches. When this happens and perpetrators are without sanction, victims lose trust and confidence in the Criminal Justice System and perpetrators act with impunity often escalating their behaviour as they grow in confidence.
- There has been evidence in cases where perpetrators have been arrested for breaches of orders
 and have subsequently had the order removed by courts as they have argued that the victim
 had initiated the contact. The emphasis must be on the perpetrator and not on the victim.
- Victims are often regarded as the ones who have "breached" the order if they communicate with the perpetrator and are seen as responsible for their own protection and expected to ensure the perpetrator is arrested for breach. This places the responsibility of the perpetrators behaviour on the victim and where children are involved, often results in Family Court applications and/or Social Services removing children if they are deemed not to have used and enforced their Order. Again the focus must be on perpetrators as it is their behaviour that should be monitored, restrained and controlled.
- There is no duty placed on the perpetrator to notify the Police of a new relationship or restrictions preventing relationships with women (with or without children) until approved by police or social services. This results in the perpetrator going from victim to victim. Where children are involved it often results in them being removed and going through care system, costing hundreds of thousands in legal fees alone per perpetrator, as well as multiple victims.
- There is also a clear lack of protection within the aforementioned Injunctions for victims when a perpetrator is being released from prison for an offence unrelated to the victim, but it is felt that the victim is at risk upon release. The perpetrator may for example have made threats from prison; the victim often gets little or no information and no detail of any license conditions to protect them or their children. The victim is unable to safeguard herself yet often receives substantial pressure from services such as Social Services to safeguard her children due to the risk the perpetrator poses. This was clearly evidenced in the case of Raoul Moat.
- The emphasis on victims having to report breaches puts them in an unacceptable position of
 greater risk as they are then blamed for the arrest or sanction by the perpetrator. Equally, a
 piece of paper does not protect victims as we have seen in many cases of murder:

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Case Study: Jeanette Goodwin murdered by Martin Bunch

Martin Bunch stabbed Jeanette Goodwin to death at her home in Essex on 24 July 2011 after she ended their long term relationship. Bunch refused to accept the relationship was over and subsequently began to stalk Jeanette. Less than a month before her death, Jeanette told police she had received unwanted voicemails, texts and visits from Bunch, who had also told his mother he planned to kill her. She reported to police that she was fearful he would kill her. At the time there was a restraining order in place but Bunch had shown complete disregard for the court process. Bunch was arrested and charged with harassment but a Magistrate then released him on bail even after he had removed his electronic tag. Bunch killed Jeanette a few days later.

4. Offender Focused Orders

The below orders highlight remedies available under civil and criminal law for convicted offenders and challenges presented in practice.

4.1 Violent Offender Orders (VOOs), Criminal Justice and Immigration Act 2008

VOOs³ are civil orders and apply to those convicted of specified violent offences;

(a)manslaughter;

(b)an offence under section 4 of the Offences against the Person Act 1861 (c. 100) (soliciting murder);

(c)an offence under section 18 of that Act (wounding with intent to cause grievous bodily harm);

(d)an offence under section 20 of that Act (malicious wounding);

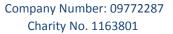
(e)attempting to commit murder or conspiracy to commit murder; or

(f) a relevant service offence.

The perpetrator must have received at least a 12 month custodial sentence (or a hospital/supervision order) and continue to present a risk of serious harm to the public after the sentence has expired. Conditions can be imposed to prohibit offender's movements and from contacting specified people for between two and five years.

It is the same notification as those on Sexual Offenders Register, including they must also tell Police if they move home, change their name, or go abroad. Breaking the terms of a VOO could be punishable by

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³ In November 2014 the use of VOOs will be extended to include the use of preventative Violent Offender Orders to offenders convicted of murder abroad, as amended by the Anti-Social Behaviour, Crime and Policing Act 2014





five years in prison.

Challenges in practice:

- Given the high attrition and low convictions rates of domestic violence perpetrators, many being repeat offenders, most do not meet the threshold for a VOO (Grievous Bodily Harm threshold currently requires/minimum 12 month sentencing). However, they continue to pose a risk to current or future partners. The use of VOO's is therefore very limited. The Crime and Public Protection Command in Essex have reported that of 380 violent offenders currently subject to MAPPA, only two currently have reached the threshold to be issued with a VOO⁴.
- There is no power of entry if the perpetrator refuses to allow the police onto their premises.
- Perpetrators subject to a VOO do not have to produce identification or details of bank accounts, credit or debit cards.
- VOOs do not include preventative measures or impose positive obligations, for example, treatment programmes on perpetrators.
- There are very real concerns from subject matter experts, that as with Anti-Social Behaviour Orders, VOOs are too broad and therefore less likely to result in breach if specific person at risk cannot be identified.
- Concerns that order breaches civil liberties, sidestepping the criminal due process protections that apply under Article 6 of the Human Rights Act (HRA)⁵.
- Lack of clarity about the burden proof necessary to prosecute a breach, as despite VOOs being civil orders it is a criminal offence to breach.
- Practitioners have reported that whilst VOOs allow for certain prohibitions to be implemented
 there is little ability under the Order to proactively manage the offender. For example, whilst
 subject to a VOO, the offender does have to inform police manager of a developing relationship
 (if a Judge has agreed to this stipulation) and they may be obligated to notify if they move
 address. However, they are under no obligation to allow a police manager to enter an address
 where they are living to carry out a home visit thus reducing any information or intelligence they
 may glean from a visit.

4.2 Sexual Harm Prevention Order (SHPO) and Sexual Risk Order, Sexual Offences Act 2003 s 104-113 amended by the Anti-Social Behaviour, Crime and Policing Act (2014)

http://www.liberty-human-rights.org.uk/pdfs/policy07/violent-offender-orders-cons.pdf

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⁴ Essex Police





Sexual Harm Prevention Orders⁶ are civil orders which are targeted at sexual offending and are designed to prevent the commission of acts or offences which would cause serious sexual harm to another person. The purpose of a SHPO is to protect the public or specific individuals from serious sexual harm by placing restrictions on the perpetrators behaviour.

The offender must be a qualifying offender (i.e. convicted of a Schedule 3 or 5 offence⁷), and; the offender must have behaved in such a way as to give reasonable cause to believe a SHPO is necessary. A SHPO can be issued either when a perpetrator is sentenced for a sexual offence or shows their behaviour may be 'risky'. A SHPO lasts for a fixed period. The period must not be less than five years but could be for life. A breach of any of the SHPO conditions is a criminal offence with a maximum penalty of 5 years imprisonment. The conditions on a SHPO should not be the same as:

- sex offender notification rules
- license conditions
- rules on not working with children.

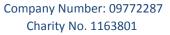
Challenges in practice:

- As with VOOs, they do not impose positive obligations, such as mandatory attendance of sex offender programmes.
- If on a SHPO for schedule 5 offences, it is not a conditional requirement to register on Violent and Sexual Offender Register (ViSOR).

Sexual Risk Order⁸ can be made against persons who have not been convicted but who have engaged in certain specified types of behaviour **on at least two occasions**. A Sexual Risk Order does not place the subject under the notification requirements – but breach of the order is a criminal offence and if convicted or cautioned for this offence then the person will then become subject to the notification requirements for the rest of the duration of the order.

4.3 Violent and Sexual Offenders Register (ViSOR)

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⁶ SOPOs were replaced by a Sexual Harm Prevention Order in November 2014, as amended by the Anti-Social Behaviour, Crime and Policing Act 2014

⁷ Schedule 3 lists specified sexual offences. On the other hand, Schedule 5 is not limited to sexual offences and includes various offences of homicide, kidnap and certain offences against the person. Whether the offence is sexual or not in nature, the test for the imposition of a SOPO remains the same: it must be necessary to protect the public or particular members of the public from serious sexual harm on the part of the defendant.

⁸ Sexual Risk Order replaced the Risk of Sexual Harm Order in November 2014, as amended by the Anti-Social Behaviour, Crime and Policing Act 2014





VISOR is owned and managed by the College of Policing. It is a database of records of those required to register with the Police under the Sexual Offences Act 2003 (the 2003 Act), those jailed for more than 12 months for sexual and violent offences, and those thought to be at risk of offending.

Information held on VISOR includes:

- Full name
- Home address
- Date of birth
- National Insurance number
- Bank details
- Passport details (if held)
- Additionally, when visited by MAPPA officers, they will be invited to, but need not, provide:
- Employers name and address
- ISP details
- Car registration
- Telephone number(s)

Offenders must inform the police within three days if there are any changes in their name, address, bank details, passport or other ID document. Offenders must also inform the police at least seven days in advance of any foreign travel and they must register any addresses in the UK at which they stay for more than a total of seven days within any 365 day period

Offenders must confirm their registration annually. That is, if they have not needed to inform the police of any changes above, they must attend a designated police station to register if they have not done so for a year. Failure to comply is an offence, subject to a penalty five years imprisonment.

4.4 A Note on Police Information Notices (PINs) (formerly known as First Instance Harassment Warnings)

- A PIN is a letter from the police to an individual who is subject to an allegation by another person in the instance of a *single* incident of harassment or stalking occurring which has caused them to feel alarmed and/or distressed but that the alleged behaviour has not yet formed a pattern of behaviour or a course of conduct as would be necessary to prove an offence under the Protection from Harassment Act 1997.
- If there is a course of conduct (2 incidents of more) the perpetrator should be arrested. We know 77% of victims suffer 100 incidents before they report to police (Sheridan 2005) and therefore it is much more likely there is a pattern and a history of stalking and an arrest should be made. Currently, this appears to be a 'go to' tactic in many police services and we also see the issuing if PINs to both the victim and the perpetrator.

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• The Notice is not a court order, warning or caution and does not prohibit the alleged offender from any specific behaviours, although it is often mistakenly treated as such.

5. Proposal and Criteria for a Serial Perpetrator Order (SPO), Risk of Harm Order (RHO) and Registration

5.1 UK

Our findings suggest that no order currently exists that manages all aspects of serial perpetration of domestic violence or stalking, particularly regarding:

- i. <u>all</u> stalking perpetrators (those who have had an intimate relationship and those who have not) as well as domestic violence offenders who meet the criteria
- ii. protection for potential *future* victims, through tracking, monitoring/supervision.
- iii. Imposing *positive obligations* on the serial perpetrator

Paladin recommend that in order to meet the objectives outlined above there would need to be primary legislation to permit the regulation and 'tracking' of serial perpetrators of violence. Notification requirements and prohibitions placed would be akin to that of a Registered Sex Offender. This would allow for a proactive approach which is necessary to keep potential victims informed and safer. Offenders should be placed on VISOR and be subjected to robust and proactive supervision, monitoring and management through the Multi-agency Public Protection Arrangements (MAPPA). Registration and tracking will also inform and facilitate the Domestic Violence Disclosure Scheme (DVDS), helping to identify patterns of serial abuse and offending behaviour and coercive control⁹.

Paladin recommends the consideration of a specific Serial Perpetrator Order and Risk of Harm Order for stalking and domestic violence which encompasses a similar framework to that of a VOO and SOPO; following a conviction, and on application by the Crown in certain circumstances a suspected serial perpetrator will be required to register relevant addresses, changes of identify and this will also allow the Disclosure Scheme to be implemented and managed effectively.

Circumstances in which the Crown would make an application to the convicting or sentencing court – as a result of convictions, cautions or allegations made by other, unconnected female victims, whether leading to a prosecution or not – the convicting or sentencing court adjudges that the offender is a serial perpetrator and should be subject to a regime akin to that of a sexual offender. Even now with the

Patron: Lady Edwina Grosvenor
Directors: Laura Richards, Rachel Horman, Allan Aubeelack, Zoe Dronfield, Shonagh Dillon, Baroness Jan Royall

Paladin – National Stalking Advocacy Service
Company Number: 09772287



⁹ Paladin, Women's Aid and Sara Charlton Charitable Foundation are spearheading a campaign in partnership regarding closing the criminalisation gap in relation to a pattern of behaviour and coercive control. For more info please see http://paladinservice.co.uk/harassment-legislation/domestic-violence-campaign/





Domestic Violence Disclosure Scheme¹⁰, although this will assist the process of identifying such individuals <u>after</u> they have come to attention in respect of a further crime or incident, but will not permit the proactive approach necessary to keep <u>potential</u> victims informed and safer. This would then satisfy all three objectives outlined above.

The Risk of Harm Order (RHO) would be akin to Risk of Sexual Harm Order for sex offenders. This order could be made against persons who have not been convicted but who have engaged in certain specified types of behaviour **on at least two occasions**. A RHO does not place the subject under the notification requirements – but breach of the order is a criminal offence and if convicted or cautioned for this offence then the person will then become subject to the notification requirements for the rest of the duration of the order.

Currently measures are in place to monitor sexual offenders in the form of the Violent and Sexual Offenders Register (ViSOR) and this would be the appropriate database for serial stalkers and domestic violence perpetrators in the UK.

5.2 Europe

Perpetrators travel and orders and their offending history and control orders should travel with them. Marc Chivers murdered his partner, Sabine Rappold, in Germany and was released after serving 15 years. He travelled to the UK and formed a relationship with Maria Stubbings, whom he sexually assaulted, abused, stalked and murdered her in 2008. His history was known but little was done to supervise and manage him¹¹. Current orders, offending histories, behaviours and restrictions should follow with perpetrators when they move to a different country.

Therefore, intelligence, information and orders should be included on pan-European databases such as SISII. SISII is a pan-European database that passes real-time information from one participating country to another, in the form of alerts relating to people and property. Most EU countries (and some non-EU) have access to SIS data. The UK will participate from October 2014, at which time SISII data will be available in the UK to all police officers, police staff and law enforcement agents.

6. Key Facts and Cost Benefits Analysis

• There are around 25,000 serial domestic violence offenders who have used or threatened violence towards two or more unconnected victims (ACPO, 2009). The most dangerous of these would be obliged to register.

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Domestic Violence Disclosure Scheme (DVDs) Pilot Assessments https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260894/DVDS_assessment_report.pdf

¹¹ In November 2014 the use of VOOs will be extended to include the use of preventative Violent Offender Orders to offenders convicted of murder abroad, as amended by the Anti-Social Crime and Policing Act 2014





- The estimated cost of creating and registering 20% of offenders would be around £1.4m over the first 3 years, but this would be easily offset by reducing the number of future victims and saving lives.
- Preventing one murder would save £1.54 million. These proposals would achieve 'break-even'
 between the cost of establishing a system to track serial stalkers and savings if they prevent
 victimisation of more than 119 victims in the first year, 238 in the second year and 357 in the
 third year.
- The Home Office Select Committee estimated cost of services for victims of domestic violence, including criminal justice, health and social services, was around £3.4 billion per year in 2008.
- The Crime Survey of England and Wales 2011/2012 suggests that at least 120,000 individuals are
 affected by stalking and harassment each year; however, only 53,029 cases are recorded as
 crimes.
- 1 in 5 women and 1 in 10 men will experience stalking in their adult life (Homicides, Firearm offences and intimate violence 2009/10; Supplementary Volume 2 to Crime in England and Wales 2009/10 2nd Edition. Home Office Statistical Bulletin 01/11)
- Victims do not tend to report to the police until the 100th Incident (Sheridan, 2005)
- Statistics show that the majority of victims (80.4%) are female while the majority of perpetrators (70.5%) are male. (National Stalking Helpline, 2011).
- The Metropolitan Police Service found that 40% of the victims of domestic homicides had also been stalked (ACPO Homicide Working Group, 2003).

7. Conclusion

A Serial Perpetrator Order, Risk of Harm Order and register for serial stalkers and domestic violence offenders will ensure protection to primary, secondary and potential future victims. This would impose a positive obligation on a perpetrator which will create much needed cultural change placing a positive obligation and responsibility back on the perpetrator. This will ultimately save lives and money.

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8. References

ACPO (2009). Tackling Perpetrators of Violence against Women. London: ACPO.

Hester, M and Westmarland, N. (2007). Domestic Violence Perpetrators. Criminal Justice Matters 66:34-36

Hester, M. Pearson, C, Harwin, N., Abrahams, H. (2007). Making An impact – Children and Domestic Violence. A reader. 2nd Edition. London: Jessica Kinglsey.

Home Office, FCO and ACPO, (2005). Dealing with Cases of Forced Marriage. Guidance for Police Officers. Home Office: London.

HMIC (2014). Everyone's Business: Improving the police response to Domestic Abuse. London: HMIC.

Justice Unions Parliamentary Group (2012). Independent Parliamentary Stalking Law Reform Inquiry Report. http://paladinservice.co.uk/wp-content/uploads/2013/10/Stalking-Law-Reform-Findings-Report-2012.pdf

Plonikoff, J. and Woolfson, R. (1998). Policing Domestic Violence: Effective Organisational Structures. London: RDS.

Richards, L. (2003). Findings from the Multi-agency Domestic Homicide Reviews in London. London: Metropolitan Police Service.

Richards, L. (2004) 'Getting Away With It: A Strategic Overview of Domestic Violence, Sexual Assault and Serious Incident Analysis' London: Metropolitan Police Service.

Richards, L, Letchford, S and Stratton, S, (2008). Policing Domestic Violence. Oxford: Oxford University Press.

Sheridan, L., and Davies, G, M. (2001). Violence and prior victim relationship. Criminal Behaviour and Mental Health, 11, 102-116.

Sheridan, L. (2005). Paper on Key Findings from the www.stalkingsurvey.com

Directors: Laura Richards, Rachel Horman, Allan Aubeelack, Zoe Dronfield, Shonagh Dillon, Baroness Jan Royall
Paladin – National Stalking Advocacy Service

Company Number: 09772287 Charity No. 1163801

Patron: Lady Edwina Grosvenor







9. Summary of Recommendations

Recommendation 1: The Government consider making DVPO/Ns a criminal breach to ensure effective sanctions.

Recommendation 2: Consideration to amend PACE to ensure police can keep the perpetrator in custody long enough to serve the DVPO on them there, rather than releasing them at a time of increased risk.

Recommendation 3: The Government consider creating a register for serial stalkers and domestic violence perpetrators and incorporating it into the existing framework for sex offenders – ViSOR and MAPPA.

Recommendation 4: The Government consider creating a new Serial Perpetrator Order (SPO) for serial stalkers and domestic violence offenders.

Recommendation 5: The Government consider creating a new Risk of Harm Order for serial stalkers and domestic violence offenders.

Recommendation 6: Ensure orders stand across European boundaries so that offending histories, behaviour and restrictions are also shared across borders.

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