



## Stalking Protection Order Procedure

This procedure is part of North Yorkshire Police policy to which all Chief Constable personnel and the functions provided by the Police, Fire and Crime Commissioner are required to adhere.

### Procedure Statement

North Yorkshire Police will issue Stalking Protection Orders (SPOs) brought into law through the Stalking Protection Act (2019).

This procedure must be read in conjunction with the Domestic Abuse Procedure and the Stalking and Harassment Procedure.

This procedure will provide a framework to ensure stalking perpetrators are made subject to SPOs wherever appropriate, and that those subject to SPOs are effectively managed for the duration of their order. The over-arching intention is to protect the victim(s) of stalking from further offending, and to prevent other people from becoming victims. Even where a victim does not support criminal proceedings the Force will use all appropriate options to reduce risk and safeguard the victim(s), and other potential victims, as necessary.

The Force will ensure the appropriate use of SPOs to support their overarching aim to keep people safe by ensuring the correct safeguarding measures are adopted to suit the needs of the individuals involved. In line with the joint Crown Prosecution Services (CPS) and National Police Chiefs' Council (NPCC) Stalking Protocol, the priorities of the Force in responding to stalking are as follows:

- To achieve improved and consistent performance in the identification, investigation and prosecution of stalking cases.
- Ensure a robust and appropriate criminal justice response to stalking or harassment.
- Establish early and effective liaison between the police and CPS in stalking cases.
- To improve the service to victims of stalking or harassment.
- Increase public confidence more widely in the ability of the Criminal Justice System (CJS) to deal with stalking cases; and
- To reflect the College of Policing's Authorised Professional Practice (APP) and CPS policy.

These priorities will be borne in mind by officers responsible for obtaining SPOs, and those responsible for the management of perpetrators subject to SPOs. New stalking investigations relating to

perpetrators subject to a SPO will be prioritised to ensure opportunities to disrupt further harm are not missed.

The procedure complies with the APP guidance on stalking / harassment and domestic abuse-related crimes and incidents.

The following are notifiable offences which require recording under the Stalking Protection Act 2019:

- Breach of a Stalking Order / Interim Stalking Order, Section 8 (1) (2) (HOC 8/74)
- Offences relating to Notification, Section 9 (1) (3) (4),10 (5),11 (1) (a) (b) (2) (HOC 68/16).

Note: All breaches of these orders must be recorded as crimes in addition to any other crimes disclosed, which must then be recorded in accordance with the provisions of the Home Office Counting Rules (HOCRs).

### **Linkages**

#### **Procedures:**

Domestic Abuse Procedure

Stalking and Harassment Procedure

#### **Other Documents:**

Protocol on the appropriate handling of stalking or harassment offences between the NPCC and the CPS 2018

APP Stalking or Harassment Guidance

Context and Dynamics of Domestic Abuse

Home Office SPO Strategy Guidance for the Police (Jan 2021)

Home Office Counting Rules (HOCRs) 2022/23

ACPO Core Investigative Doctrine 2012

Stalking Protection Act 2019

MOSOVO & MAPPA Guidance

Stalking Protection Order checklist – for use by police forces

Superintendent's authorisation to make application for a Stalking Protection Order

### **Process**

#### **Obtaining and Managing Stalking Protection Orders (SPOs)**

North Yorkshire Police is committed to protecting the public from stalking perpetrators, as it is recognised that they pose a risk of serious harm to both victims and third parties. Investigation of stalking offences is governed by the ACPO Core Investigative Doctrine 2012 and the Domestic Abuse & Stalking and Harassment Procedures.

The following procedures are to be followed when applying for Stalking Protection Orders (SPOs) and the subsequent management of perpetrators under SPOs. An SPO is a new power granted under the Stalking Protection Act (2019).

SPOs can both prohibit a person from doing anything described in the order and positively require them to do anything described in the order.

A breach of an SPO, without reasonable excuse, is an either way offence, attracting a maximum sentence of 5 years in prison on indictment.

## **Applications**

SPOs came into use on 20th January 2020. Applications can be made retrospectively for behaviour that took place prior to enactment of the Stalking Protection Act (2019).

### General Points regarding Applications:

SPOs are granted by a Magistrates' Court upon application by a Chief Constable. In practice, applications will be made by Legal Services. Following consultation with the Stalking Team, an application should be initiated by sending a completed application form and checklist to an officer of at least the rank of Superintendent. The authorised application and completed checklist (Superintendent's Authorisation Form and SPO checklist) should then be sent to Legal Services by the Officer in Charge (OIC). Where the application is not supported, the risk assessment will require review and appropriate safeguarding options implemented. Legal Services will advise the OIC of any further material required to make the application in order to satisfy the court that the defendant:

- Has carried out acts associated with stalking.
- That they pose a risk associated with stalking to another person; AND
- Making the order is necessary to protect that / another person from such a risk.

An application can be made for an SPO at any stage during an investigation; it does not have to wait until the conclusion of the investigation and must be considered as early as possible in order to safeguard the victim(s). No conviction is required in order to make an application for an SPO, as long as the court can be satisfied as to the conditions set out above. In the event of an application coinciding with criminal charges, the application is still made via Legal Services and not through completion of section 9 of the MG5 form.

Applications for SPOs should be made by the Force covering the location where the defendant resides, or where they are believed to be / intending to reside. If a defendant has committed stalking offences in North Yorkshire, but resides out of Force, a full handover will be provided to the relevant local Force in order for them to pursue an application, as outlined in the investigations section.

Conversely, North Yorkshire Police will progress applications relating to perpetrators residing in our area. The Force where the victim resides will maintain responsibility for victim contact and safeguarding throughout the process. Applications can be made by Forces in England and Wales in relation to stalking behaviour which occurred abroad, as long as the perpetrator resides in England or Wales.

Legal Services will file the application at court and request a summons. The court will send the summons to Legal Services who will liaise with the relevant officer / OIC as to the best method of

service of the summons along with the application papers to secure the defendants attendance at the SPO hearing. There is no requirement on the applying police Force to issue a separate notice of the hearing. If a defendant fails to attend an SPO application hearing, and the court is satisfied that they have been served with the summons and the application papers in a reasonable time prior to the hearing, the court may proceed in their absence and/or issue a warrant for their arrest or adjourn the hearing.

SPOs are in effect for either a fixed period as specified in the order (minimum 2 years), or until a further order is issued by the court. Different periods may be specified in relation to different prohibitions or requirements.

If the court has not yet made a determination regarding an SPO, they may make an interim SPO, which has the same effects and conditions as a full order. In urgent cases, it may be appropriate to make an application for an interim SPO even if further investigation would be required to meet the threshold for a full order. An application for an interim order should not be made simply because there has been inadequate preparation for an application for a final order.

SPOs and interim SPOs must specify:

- The date on which the order is made.
- Whether it has effect for a fixed period and, if it does, the length of that period.
- Each prohibition or requirement that applies to the defendant.
- Whether any prohibition or requirement is expressly limited to a particular locality and, if so, what the locality is.
- Whether any prohibition or requirement is subject to a fixed period that differs from the period for which the order has effect and, if so, what that period is.

The minimum age that a person can be made subject to an SPO is 10 years, in line with the age of criminal responsibility. Any application against a child or young person should be made in consultation with Youth Offending Services (YOS).

### **Investigations**

Due to the serious and complex nature of stalking, all such investigations should have PIP 2 oversight.

The suitability of an application for an SPO must be considered in all cases of stalking from the outset. These should be discussed with a supervisor and the rationale recorded for either applying or not applying for an SPO on the OEL. It should not merely be a consideration at the end of an investigation, careful consideration needs to be given as the material is disclosed to the defendant upon application.

Where police bail conditions are used during an investigation, ideally the conditions should mirror any anticipated to be included in a subsequent SPO application. An application may also be made for an interim SPO in cases where an order is required urgently to safeguard the victim(s). Where the application is not supported by the Superintendent the risk assessment will require review in conjunction with the Stalking Support Team and appropriate safeguarding options implemented.

The victim's views must be sought and considered prior to making any SPO applications. However, the victim's support, or lack thereof, should not be the only factor influencing whether or not to make an application.

Wherever possible, the OIC should consult with the Stalking Support Team regarding appropriate conditions before submitting the application.

It will be the OIC's responsibility to collate evidence to support an SPO application, complete the SPO OIC MG11 liaise with Legal Services for any further material required and give evidence at any subsequent SPO hearing. This includes out of Force requests for perpetrators living in North Yorkshire, who have exclusively offended elsewhere. These will be allocated and progressed by the appropriate Command team where the offender resides. Where the application is not successful at court the risk assessment will require review and appropriate safeguarding options implemented.

The OIC will maintain responsibility for any further victim contact required up until the serving of the SPO. If the OIC has moved department or left the Force, a new OIC should be nominated from their department when required. Victim care-related responsibilities should not sit with the officer responsible for management of the perpetrator.

### **Offender Management Unit and the Stalking Support Team**

The OMU Team for each Command and the Stalking Support Team will be jointly responsible for managing perpetrators subject to SPOs. All SPOs will be added to the perpetrator's Police National Computer (PNC) record, and the 'Stalking Protection Order' Niche occurrence created to document the SPO linking any relevant entities.

Each perpetrator will be allocated an Offender Manager who will record their activities on a Niche Occurrence Enquiry Log (OEL) input and on VISOR. This occurrence should contain details of the conditions of the SPO and a bespoke management plan, which will be created jointly with the Stalking Support Team. The plan will be designed to reduce the risk of further offences, protect any parties identified in the SPO and enforce action surrounding any breaches. If the SPO contains any conditions compelling the perpetrator to comply with certain activities, such as treatment programmes, responsibility for monitoring compliance will sit with the managing officer, in liaison with partner agencies as necessary.

For each perpetrator subject to an SPO, the managing officer must consider whether the case should be referred into Multi-Agency Public Protection Arrangements (MAPPA) and/or Multi-Agency Risk Assessment Conference (MARAC), if it has not been already. The rationale for this should be recorded on the Niche Master Log. If Probation are the lead agency they should also consider and rationalise decision making around these referrals.

Should a perpetrator be identified as committing further offences during the course of their management, investigation of those offences will not be undertaken by the managing officer and will revert to CID, Response or the Investigation Hub. Any further incidents should prompt a safeguarding review by a Stalking Support Officer.

It is expected that any perpetrators subject to OMU management due to an SPO will be treated as any other VISOR subject, i.e., that any further offences identified will be dealt with robustly and expeditiously by the investigating team, to prevent further harm. The default action should be to arrest the perpetrator where there are grounds for, and where it is necessary to, arrest: Interviews under voluntary attendance must only be used where there are exceptional circumstances.

### **OMU Management of Offenders**

1. If the defendant is not present at court, the order will be served at the earliest opportunity and MG11 completed by the appropriate Command.
2. Checks set for 3 days after the SPO is agreed. Suspect must register their address at a Police station as per SPO conditions. Notification Forms under Section 9 of the Stalking Protection Act 2019 are to be completed via Customer Services Officers.
3. Intel log Submitted confirming SPO in place via MAPPa inbox.
4. SPO or Interim SPO to be uploaded onto the Niche via MAPPa inbox.
5. Notify If / Subject of Stalking Protection markers to be added to the suspect to alert the MAPPa inbox of any police contact.
6. As soon as possible after the SPO is issued a home visit is to be carried out (in pairs) to conduct risk assessment and build rapport. This should be a joint OMU / Stalking Support Team visit wherever possible.
7. Stalking Risk Profile and Risk assessment to be completed by SST and uploaded on to the Niche master log.
8. Risk to be set.
9. Visit length to be set.
  - i) first visit at 3 months,
  - ii) second visit 3 months after that, if at this point the risk is being managed and no ongoing problems the next visit will be at
  - iii) 6 months then again if still no problems the next visit to be
  - iv) 12 months

There will be occasions when professional judgement will need to be followed which can take any visits outside of these options, should it be necessary and proportionate.

10. Risk assessment to be checked and assessed by DA Inspector / Safeguarding Manager.

### **Transfer of SPOs between Forces**

- If it is identified that a nominal intends to move policing area, they should be reminded of their requirement to notify by their OM
- The OM will inform the police Force of where they wish to move by transferring the VISOR record to the receiving Force.

### **Discharge, Renewal and Variation**

Discharge, renewal, and variation of an SPO may be sought by either the perpetrator, or by the police Force that has responsibility for their management. This may not occur before 2 years unless with the consent of the other parties. Legal Services will be responsible for representing North Yorkshire Police's interests at any such hearings. The Officer responsible for victim care, usually the allocated Stalking Support Officer, must ensure they seek the victim's views in advance of any such hearing, and these will be included in the evidence presented to the court.

### **Notification at Police Station**

The issuing court will make the relevant team aware by email that the order has been granted.

Perpetrators with an SPO will be required to notify their details (name and home address) at a prescribed police station within three days of the order being made. They will be required to notify any changes to these details within three days of the changes. Customer Service Officers will record this information using the notification requirement form. When completed, a copy of this form must be given to the respondent as an acknowledgement of their notification, as required under section 10(4) of the Act. Customer Service Officers will then notify the relevant team by scanning the completed notification form to the VISOR/SPO inbox and PNC RSO/SPO.

Failure to comply with these requirements, without a reasonable excuse, is a criminal offence. It is triable either way and attracts a maximum 5-year sentence on indictment.

The relevant Command will be responsible for investigating breaches of SPO notification requirements for their offenders.

### **Example Conditions**

These lists are not exhaustive, and each application must be considered on its own circumstances.

The conditions of an order could include prohibiting the defendant from:

- Entering certain locations or defined areas where the victim resides or frequently visits.
- Contacting the victim by any means, including via telephone, post, email, SMS text message or social media.
- Contacting or interacting with the victim via third parties, for example friends or family.
- Making reference to the victim on social media, either directly or indirectly.
- Making vexatious applications to the civil court which reference the victim.
- Recording images of the victim.

- Using any device capable of accessing the internet unless it has the capacity to retain and display the history of internet use.
- Physically approaching the victim, at all or to within a specified area or as outlined on a map.
- Engaging in any form of surveillance of the victim by any means.

The conditions of the order could include positive requirements to:

- Engage with the local OMU team.
- Attend an assessment of suitability for treatment.
- Attend an appropriate perpetrator intervention programme.
- Attend a mental health assessment.
- Attend a drugs and alcohol programme.
- Surrender devices for examination.
- Provide the police with access to social media accounts, mobile phones, computers, tablets, and passwords / codes.
- Sign on at a police station.

### **Breaches**

a. SPOs can be breached in a number of ways:

- 1) Breach of a stalking order or interim order by failing to comply with conditions imposed.
- 2) Offences relating to notification as follows:
  - Fail to comply with request of police officer or other authorised persons for fingerprints / photographs / both.
  - Fail to notify police of name not already notified within 3 days; Fail to notify police of new home address within 3 days.
  - Fail to notify police of notification requirements within 3 days of service of Stalking Order / Interim Stalking Order.

Provide information relating to notification requirement known to be false.

b. Further guidance can be found on the Police National Legal Database (PNLD).