

How we changed the law on stalking

VIEWPOINTS

Just over a year ago the national charity Protection Against Stalking (PAS) and Napo, the probation and family court union, launched a campaign in Parliament to raise awareness about the dangers of stalking (see March MAgristrate). Stalking was previously an invisible crime – it was everywhere and nowhere.

Too often stalking goes unreported and when it is reported there is a lack of understanding and low priority given to cases by police, Crown Prosecution Service (CPS), probation, magistrates and judges. In many cases the stalking campaign is missed and effective risk assessment and management is lacking which can have lethal consequences.

PAS know firsthand the devastating impact of stalking. Clare Bernal was stalked and murdered by Michael Pech in Harvey Nichols in 2005 and Rana Faruqui was stalked and murdered by Stephen Griffiths in 2003. Stalkers steal lives, and in the worst cases take lives. From case experience it was evident that the existing legislation passed in 1997, the Protection from Harassment Act, was no longer fit for purpose and seemed to deal with neighbour disputes rather than deal effectively with prolonged campaigns of stalking. Harassment, we believe is very different from stalking. Stalking is about fixation and obsession – the hunter and the hunted.

The British Crime Survey suggests about 120,000 people a year are harassed or stalked and 53,000 of those cases in 2009/10 were recorded as crimes by the police. Just 2% receive a custodial sentence and in a further 10% of cases the perpetrator was either fined, given community service or a conditional discharge. However, the vast majority of cases appear not to be proceeded with.

One of the key challenges with stalking is that, taken in isolation, behaviours might seem unremarkable. However, in particular circumstances and with repetition, they take on a more sinister meaning. This is why it is so important to understand the history and totality of what has been happening, rather than just the 'incident' reported or presented.

The independent Parliamentary stalking law reform inquiry

PAS and Napo jointly launched a parliamentary campaign under the auspices of the Justice Unions' Parliamentary Group to review the law on stalking and harassment and the adequacy of training; to review risk assessment and sentencing policy and practice; and to explore the need for victim advocacy and perpetrator programmes.

It was impossible to foresee that by April 2012 stalking, involving the fear of violence and also psychological harm, would become an offence in its own right. This was achieved through a remarkable consensus between parliamentarians of all parties and none, and by the members of a unique Parliamentary Inquiry held during the summer and autumn of 2011 and organised by the campaign. PAS felt strongly that the victims' voice should be placed at the centre of the inquiry as well as evidence from frontline practitioners about the devastating impact of stalking, what was going on and what was going wrong.

PAS and NAPo met at an Association of Chief Police Officers stalking and harassment working group in January 2011. PAS were coordinating the first UK National Stalking Awareness Week. A decision was taken to try and raise awareness in Westminster by organising briefing events in both the Commons and Lords in the early to mid-spring of 2011. It was clear from these meetings that understanding amongst parliamentarians of stalking was either low or non-existent. An early-day motion, a means by which backbenchers can indicate support for an issue, was tabled, calling for stalking law reform and for support for the first ever National Stalking Awareness Week, which was to take place in April 2011. By the time the event took place, over 80 parliamentarians of all parties had issued their support for a law review.

By July, over 120 parliamentarians had pledged their support for the review. We approached Elfyn Llwyd of Plaid Cymru, chair of the Justice Unions' Parliamentary Group, to set up a review. What evolved was to be momentous; a people's inquiry into stalking law reform. PAS and Napo acted as specialist advisors to the group.

During the early summer, approaches were made to a number of parliamentarians and all agreed to sit on the Inquiry and hear evidence from victims and professionals. Those joining the inquiry panel came from all political parties and from crossbenchers in the House of Lords.

The first evidential session involved five victims and bereaved families whose daughters had been murdered by stalkers. They included Tricia Bernal and John and Penny Clough whose daughter, Jane, was stalked and murdered in Lancashire in 2010 by Jonathan Vass. Claire Waxman and Tracey Morgan also gave evidence, both of whom have been stalked for nine and ten years respectively. Tracey's experience in the 1990s led to the Protection from Harassment Act.

This session was crucial in setting the tone for the rest of the campaign. The inquiry were told of campaigns of intimidation and terror, many of which had lasted for years which were rarely taken seriously. One or two of the inquiry panel were moved to tears. In all cases the response of the criminal justice authorities was at best haphazard and at worse indifferent. The determination of the inquiry



members was hardened and resolved. Mark D'Arcy of the BBC who attended described it as 'one of the most harrowing parliamentary events I've ever reported'.

Further evidence followed from the National Stalking Helpline, cyberstalking experts, probation, lawyers, police, the Magistrates' Association, Women's Aid and the Victims' Commissioner. All, including DCI Linda Dawson from Hampshire, who was involved in drafting the 1997 Act, believed that change was needed in order to transform and save lives.

In September 2011, Yvette Cooper, Shadow Home Secretary, was seen and she later announced at Labour Party Conference her party's commitment to law reform. By November 2011 over 60 parliamentarians had been briefed using the evidence base from parliamentary questions and research as well as cases. A range of organisations also supported the inquiry including the Police Federation, trade unions, Victim Support and others.

The Victim's Voice survey

During November 2011 PAS published its influential and pioneering research entitled *The Victim's Voice*. It was an online survey (www.surveymonkey.com/s/_WK2TGVJ), detailing over 140 victims who had experienced stalking to ensure their voice informed changes within the CJS, as well as better support for victims.

It revealed deep dissatisfaction with criminal justice professionals, secondary victimisation by the system, a lack of confidence in the judicial process and the horrific long-term nature of stalking. It highlighted that victims are rarely taken seriously, and most of the time they are told that the police cannot do anything and 'their hands are tied by the law'. Simultaneously, Napo undertook a study of 80 perpetrators which was published a month later. The findings echoed the *Victim's Voice* research: perpetrators are rarely punished or receive the appropriate treatment they require; only once the perpetrator has seriously harmed the victim, does the system then react and respond. By then it is too late.

In November, in response to the success of the people's inquiry, the Home Office announced its consultation on law reform.

In December, the advisors drafted, at the request of Labour's Baroness Royall, three amendments to the Committee Stage of the Protection from Freedoms Bill, which created a new offence of stalking, made the offence of harassment triable in the Crown as well as the magistrates' court, and placed a duty on the Secretary of State to produce an annual report on action she had taken to combat stalking. This won support from all sides of the house and the Government finally agreed, in February, to bring its own amendments for consideration.

In December PAS and Napo published a report on the abuse of process in the family courts, which also informed the Inquiry. It revealed that abusive behaviour continues as some convicted perpetrators pursue their victims through the family and civil courts.

By mid-January 2012 all the evidence had been reviewed and a consensus reached. There was support for a comprehensive package involving a specific law of stalking, training for professionals, tougher sentencing guidelines, the ability of the criminal courts to suspend the parental responsibilities of abusive perpetrators to prevent them making vexatious applications to see their children through the family courts and for amendments to the Bail Act.

The Parliamentary Stalking Law Reform Inquiry report was launched on 7 February 2012 in the House of Lords, together with a draft Bill which received a lot of media focus.

On 8 March, International Women's Day, the Prime Minister announced support for law reform. The following day the Government's amendments to the Protection of Freedoms Bill which was due for its Third Reading in the House of Lords were published. However, the amendments only included the word 'stalking' rather than a test of psychological harm at s4.

Seventy-two hours of negotiation followed, including an intervention by Number 10, to ensure that the amendments were fit for purpose. By 12 March the Government had agreed to include a clause about psychological harm. The clauses in the Bill completed their final stages between the two Houses of Parliament and the new law will commence in November 2012.

The campaign for reform was achieved in a remarkably short space of time and Mark D'Arcy from the BBC, who has followed the campaign throughout, remarked: 'It is impossible to imagine this kind of response to an all-party report in any recent Parliament'

Our work does not end here – it is only the beginning. There still remains an urgent need for the establishment of a victims' advocacy scheme which would support, advise and signpost victims through the CJS. The priority now is obtaining funding. We know this will transform and save lives, as well as money.

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STALKING IS ABOUT
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For more information, visit: www.protectionagainststalking.org