

***POLICE, CRIME, SENTENCING
AND COURTS BILL:
WRITTEN EVIDENCE SUBMITTED
BY SUZY LAMPLUGH TRUST
(PCSCB34)***

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**LIVE
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trust

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Executive Summary

Suzy Lamplugh Trust has over 30 years’ experience supporting victims of violence, aggression and stalking, as well as campaigning for better protections for victims in policy and law. The Trust is therefore uniquely placed to comment on the Police, Crime, Sentencing and Courts Bill, which provides a key legislative opportunity to ensure a safer society for all.

- The first section of the briefing highlights the need to strengthen sentencing for stalking crimes. The section also recommends training on stalking for professionals throughout the criminal justice system, as well as non-stalking-specialist support services.
- The second section focuses on public safety in the context of systemic gender-based violence. The Trust welcomes new clauses to tackle misogyny and public sexual harassment, however considers that the proposed clauses are not sufficiently comprehensive in their current wording.
- Finally, we welcome new clauses to protect public-facing workers from violence at work, and make further recommendations.

1. Stalking and the criminal justice system

1.1 Sentencing for stalking crimes

1.1.1 Minimum custodial sentence for stalking

With reference to proposed amendment NC22: Minimum sentence for an offence under section 4(A) of the Protection from Harassment Act 1997 and NC24 Review of domestic homicide

According to the Protection from Harassment Act 1997, the offence of stalking can carry up to 10 years, or 14 years with a racially aggravated element. However, through the National Stalking Helpline we know that sentencing in cases of stalking is noticeably short, with perpetrators often being let out on licence after half the sentencing time. Data from MoJ also shows that in 2020, of the 477 perpetrators sentenced for stalking offences involving fear of violence or serious alarm/distress (4A stalking offence),¹ fewer than half (204) received an immediate custodial sentence,² with the average custody length only 16.6 months.³

Moreover, there were 121 convictions for stalking with a racially aggravated element according to the MoJ in 2020, but the average custodial sentence was a mere 7.8 months.⁴ This leaves victims unprotected again after a brief time and many have described feeling ‘like sitting ducks’ waiting for the stalker’s release, which in many cases results immediately in another attack. It is imperative that stalkers are given longer custodial sentences to allow the victim a sufficient period of respite, and for the gravity of the crime and its devastating impact to be sufficiently recognised.

In addition, as management of perpetrator risk is vital given the fixation and obsession which characterise stalking behaviours, it is critical that victims should never be put at further risk as this can have devastating consequences. It is concerning therefore that under one third of stalking convictions

¹ Including racially or religiously aggravated stalking with fear of violence.

² 145 received a suspended sentence and 86 received a community sentence.

³ Principal offence proceedings and outcomes by Home Office offence code data tool, retrieved from: <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2020>

⁴ With 38 receiving a community sentence and 30 a suspended sentence.

result in imprisonment.⁵ Community sentences should never be considered if the risk cannot be managed appropriately.

1.1.2 Stalking Homicide Sentencing

The Trust supports the aims of NC24 for a review into ‘sentencing policy surrounding domestic abuse’. As highlighted by the DA and Victims’ Commissioners, a ‘culture of misogyny’ in the CJS may result in perpetrators receiving shockingly low sentences, which also do not reflect the ‘prolonged abuse’ preceding DA homicides.⁶

However, the Trust is concerned that this review would not include stalking crimes, including homicides, perpetrated outside the DA context. Stalking is predominantly perpetrated by men against female victims, with 4 out of 5 victims presenting to the National Stalking Helpline identifying as female. A recent report also found that stalking behaviours were present in 94% of femicides.⁷ It is therefore crucial that this review also considers sentencing for stalking crimes.

Section 1.1. Recommendations:

1. Suzy Lamplugh Trust **does not support Amendment NC22, which imposes a minimum sentence of 5 months** to adults convicted of 4A offences. As many as 91% of respondents to a recent survey reported suffering from mental health problems following the experience of being stalked; a further 78% met the clinical criteria for PTSD.⁸ The 4A offence of stalking applies to victims in cases involving ‘serious alarm or distress’. The Trust would argue that most of the cases meet this criteria, as the impact on the victim is demonstrably substantial. However, currently convicting a stalker of the higher 4A offence is rare as discussed above. It is extremely concerning that the vast majority of cases do not reach even half the maximum sentence. **It is therefore important that rather than focusing on a minimum sentence of 5 months, which arguably is too low for an either way section 4A offence, the criminal justice system seeks higher prosecutions and convictions for 4A offences as they stand.**
2. It should also be noted that in cases where there are other serious charges (such as homicide or serious sexual assault) alongside stalking, it should be compulsory for the latter to be prosecuted in conjunction with the Index crime.
3. It is important to note that **due to the fixated and obsessive nature of stalkers, community sentences are not appropriate in stalking cases**, as it leaves open the possibility that perpetrators will go on to reoffend in these cases leaving the victim vulnerable.

⁵ Only 322 perpetrators were given an immediate custodial sentence out of 1,199 sentenced and 1,230 convicted for stalking offenses (excluding breach of stalking orders/interim stalking orders).

⁶ <https://news.sky.com/story/culture-of-misogyny-could-mean-men-get-more-lenient-sentences-commissioners-warn-12239861>

⁷ In an analysis of 358 cases of homicide with a female victim and male perpetrator (Monkton-Smith et al., 2017:3), accessible at: <https://www.suzylamplugh.org/Handlers/Download.ashx?IDMF=1a6cf4d9-0df5-42be-8b02-4bdbd75fa264>

⁸ Research conducted by the National Stalking Consortium, accessible at: <https://www.suzylamplugh.org/Handlers/Download.ashx?IDMF=7d7e3529-cb56-4743-acdf-46a12c1f5c9d>

4. As with domestic abuse homicides, **stalking homicides must be reviewed** to determine whether sentencing is unduly lenient given the gravity of the crime and (often prolonged) behaviours.⁹

1.2 Stalking Training

With reference to NC15: Training for relevant public officials in relation to the conduct of cases of serious sexual offences

1.2.1 Victims' Experience with Police

Stalking is often mischarged as harassment or malicious communications, recognised most often as a low-level 'nuisance' offence, with the larger course of conduct and detrimental impact on the victim being disregarded. In our recent report published this April entitled Unmasking Stalking, over half (59%) of all respondents reported a wholly or somewhat unsatisfactory experience with the police. The most common reasons for this indicated that police did not recognise the pattern of behaviour as a stalking offence (24%). As many as 60% of respondents reported stalking to the police in the UK said they have no legal protections in place, demonstrating a lack of urgency in cases of stalking.¹⁰

1.2.2 Reporting to Police

The Office of National Statistics recorded 1.5 million cases of stalking between March 2019 and April 2020, while only 30,931 cases were reported to the police during that same time period according to the Crime Survey for England and Wales. The National Stalking Helpline finds that 77% of victims experience over 100 incidents before contacting the police. It is very common for victims to state that their experience with the criminal justice system has been a form of re-traumatisation for them on top of the impact of stalking; this can result in the victim dropping the charges as they feel the experience is not worth the potential outcome of a conviction. It is therefore vital that police forces are comprehensively trained in stalking in order to better recognise stalking as a pattern of behaviour, rather than respond to single incidents and risk treating them as lower-level offences.

1.2.3 Victims' Experience of the Courts

Victims often find that courts do not understand the pattern of stalking. Often victims have not been informed of the outcome of the trial in a timely manner, and/or hearings are delayed by months or at worst years. In our Unmasking Stalking report, 63% of all survey respondents who attended court detailed that they had a wholly or somewhat unsatisfactory experience with the courts process.

1.2.4 Police & Prosecutor Training

Suzy Lamplugh Trust recently conducted a survey for police forces across the UK. It found that out of over 1,400 respondents across 18 forces, 65% had never received any stalking specific training (32% have been in service for over a decade). As many as 94% stated they would be interested in stalking specific training, and 82% confirmed that they thought it would equip them to better deal with cases of stalking.

⁹ Monkton-Smith et al. found that, 85% of femicides analysed involved a relationship or association between the victim and perpetrator of 12 months or more (2017:3).

¹⁰ <https://www.suzylamplugh.org/Handlers/Download.ashx?IDMF=fcfb781a-f614-48c8-adcf-4cfa830c16a7>

Section 1.2 Recommendations:

1. Suzy Lamplugh Trust recommends that **Amendment NC15 be modified to include stalking training for relevant public officials on investigations of stalking**. It should also be included for non-specialist support services, such as the NHS and other support agencies.
2. Public officials should include: the Crown Prosecution Service, Magistrates Courts, Police Forces, the Judiciary, Probation and such other public bodies such as the Secretary of State considers appropriate.
3. **Any judge who attends a stalking trial should be trained in stalking**. If they have not attended a stalking specific training, they should not be considered to attend the trial in question.

1.3 Protections for stalking victims

1.3.1 Protection to complainants in sexual offences trials

With reference to NC10 to NC14

While sexual assault is less common as a stalking behaviour, the Trust is aware of multiple severe stalking cases where it forms part of the course of conduct. The Trust therefore supports amendments NC10 to NC13, which aim to provide enhanced protections to complainants in sexual offences trials by amending section 41 of the Youth Justice and Criminal Evidence Act 1999. It is vital that victims of sexual offences are not further traumatised, and that their rights are fully protected. Given the shockingly low prosecution and conviction rates for sexual offences,¹¹ the Trust also fully supports NC14 which would improve reporting on rape and sexual assault proceedings and trial delays.

Section 1.3 Recommendations:

1. Complainants in sexual offences trials must be protected.

The government must support new clauses NC10 to NC14 to protect complainants in sexual offences trials.

2. Misogyny and public safety of women and girls

2.1 Misogyny

With reference to NC25 Strategy to tackle misogynist attitudes in society

Suzy Lamplugh Trust recognises that violent and aggressive behaviour sits within a gendered framework, in which the majority of violent and aggressive behaviour within our society is perpetrated by men. It is therefore key to challenge misogynistic gender norms and stereotypes which fuel or legitimise violent behaviours.

In light of this, the Trust strongly supports NC25, which would commit the government to developing a comprehensive national strategy to tackle societal misogyny. However, the Trust recommends the strategy be developed by an independent taskforce, consulting with VAWG experts. It must also include

¹¹ <https://www.theguardian.com/society/2020/jul/30/convictions-fall-record-low-england-wales-prosecutions> & <https://www.theguardian.com/society/2021/may/23/fewer-than-one-in-60-cases-lead-to-charge-in-england-and-wales>

tackling the unacceptably low conviction rates for VAWG crimes, such as stalking,¹² as well as inquire into misogyny in the CJS.

Section 2.1 Recommendations:

1. Independent task force must develop strategy to tackle misogyny

A fully independent task force must be appointed to develop the strategy, with comprehensive input from the VAWG sector.

2. Strategy must address misogynist attitudes at root cause

The national strategy must address misogyny and VAWG at its root cause, including the school curriculum content.

3. Strategy must address low conviction rates for VAWG crimes and institutional misogyny in the criminal justice system through an independent inquiry

As part of the wider strategy, an independent task force must also tackle the attrition of VAWG crimes through the CJS, as well as inquire into institutional misogyny in the CJS.¹³

2.2 Public sexual harassment

With reference to NC1 Harassment in a public place, NC2 Kerb-crawling & NC23 Street sexual harassment

2.2.1 Public Sexual Harassment is a VAWG crime:

Suzy Lamplugh Trust believes that there are urgent issues around women and girls' and LGBTQIA+ individuals' safety in public places. Public sexual harassment is overwhelmingly perpetrated against women and girls, as well as the LGBTQIA+ community and gender diverse people.¹⁴ 2020 data from the Crime Survey for England and Wales (CSEW) also show that women are more likely to experience sexual assault than men, with 2.9% of women aged 16-74 years experiencing sexual assault in the last year, as compared with 0.7% of men.¹⁵

¹² For example, while there were an estimated 1.5 million victims of stalking in England and Wales between April 2019 and March 2020, only 30,931 cases of stalking were reported to the police and, of these, only 3,067 were charged and 2,288 prosecuted according to data from the CPS. See: <https://www.gov.uk/government/statistics/police-recorded-crime-open-data-tables>, <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/stalkingfindingsfromthecrimesurveyforenglandandwales> and <https://www.cps.gov.uk/cps/news/stalking-analysis-reveals-domestic-abuse-link>

¹³ The Domestic Abuse Commissioner and Victims' Commissioner have also highlighted 'a culture of misogyny throughout the criminal justice system' <https://news.sky.com/story/culture-of-misogyny-could-mean-men-get-more-lenient-sentences-commissioners-warn-12239861>

¹⁴ See, for example: https://www.unwomenuk.org/site/wp-content/uploads/2021/03/APPG-UN-Women_Sexual-Harassment-Report_2021.pdf, <http://www.galop.org.uk/transphobic-hate-crime-report-2020/>, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/722314/GEO-LGBT-Survey-Report.pdf and <https://plan-uk.org/file/ending-public-sexual-harassment-the-case-for-legislationpdf/download?token=YINyyOfW>

¹⁵ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesvictimcharacteristicsenglandandwales/march2020>

2.2.2 Current legislative framework inadequate to protect victims

However, despite the ubiquity of public sexual harassment (PSH), such as catcalling, lewd comments or unwanted physical contact, current laws do not adequately address all acts of PSH, with the result that these abusive behaviours are rarely reported let alone prosecuted or convicted, leaving victims unprotected.¹⁶

2.2.3 New clauses insufficient to fully address public sexual harassment

While new clauses propose criminalising public harassment, kerb-crawling and street sexual harassment (NC1, NC2 and NC23), the Trust is concerned that the clauses are not sufficiently comprehensive to protect victims. In particular, we are concerned that the clauses do not cover all kinds of harassment (physical and verbal conduct, as well as non-verbal attitudes) in all public places.

Furthermore, the Trust is concerned that the new clauses are worded as gender neutral (albeit with the reference to conduct of a 'sexual nature' in NC23), despite evidence that such crimes are predominantly targeted towards women and girls, as well as the LGBTQIA+ community.

We are also concerned that the new clauses do not reflect the potential gravity of these crimes, which may cause severe trauma. NC1 and NC2 are specified only as summary offences, while the fines proposed in NC23 may not be appropriate for more serious instances of public sexual harassment.¹⁷

Furthermore, the government must appoint an independent task force to develop a strategy to tackle public sexual harassment, including a public-awareness raising campaign.

2.2.4 Women and girls' personal safety in Taxis/PHVs

Relatedly Suzy Lamplugh Trust remains concerned that women and girls' personal safety in Taxis/PHVs is not adequately protected by current legislation.¹⁸ In February 2019, the Department for Transport announced plans to introduce legislation for national minimum standards for taxi and PHV licensing.¹⁹ However, the Trust was disappointed to learn that the Government now plans only to issue statutory guidance. Our research shows that current guidelines are often not upheld, are interpreted differently and are not legally enforceable.²⁰

¹⁶ The Protection from Harassment Act 1997 requires a course of conduct so would not capture single incidents of abuse, the Sexual Offences Act 2003 contains various higher-level offences but not all unwanted sexual behaviours, and the Public Order Act 1986 does not capture the gendered context of the targeting of women. See: <https://plan-uk.org/file/ending-public-sexual-harassment-the-case-for-legislationpdf/download?token=YINyy0fW> and <https://plan-uk.org/file/public-sexual-harassment-legal-briefing-apr21pdf/download?token=V5C-F0i5> See also: https://www.unwomenuk.org/site/wp-content/uploads/2021/03/APPG-UN-Women_Sexual-Harassment-Report_2021.pdf

¹⁷ Furthermore, it is unclear why NC1 caps the fines at standard scale level 5 and NC2 & NC23 at standard scale level 3.

¹⁸ See press release here: <https://www.suzylamplugh.org/news/suzy-lamplugh-trust-expresses-concern-at-governments-u-turn-on-taxi-and-private-hire-vehicle-licensing-standards>

¹⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/923695/taxi-task-and-finish-gov-response.pdf

²⁰ <https://www.suzylamplugh.org/Handlers/Download.ashx?IDMF=9e6c4d5a-fd04-472a-9961-e5dd04f98158>

Section 2.2 Recommendations:

1. Criminalisation of all kinds of public sexual harassment in all public places

The legislation must be holistic in criminalising all acts of public sexual harassment (PSH) in all public places. We recommend the bill contain comprehensive guidance for victims, police and prosecutors. It should clearly delineate PSH so there is no potential for mischarging, such as under the Protection from Harassment Act 1997 or the Sexual Offences Act 2003. We also suggest that legislation be piloted before national rollout.

2. Gendered nature of the crime

We recommend that the legislation explicitly recognise PSH as a VAWG crime, and criminalise both 'sexist' and 'sexualised' conduct.

3. Gravity of the crime

Legislation must consider conduct that may constitute a greater classification than a summary offence.

4. Strategy to tackle public sexual harassment

A fully independent task force must be appointed to develop a national strategy to tackle PSH, including an awareness-raising campaign condemning all PSH.

5. Legislation to tighten up safety checks on Taxi and PHV drivers

The government must introduce a single consolidated legislative framework for licensing Taxi and PHV drivers throughout England and Wales.

3. Safety of public-facing workers

With reference to NC45 Offence of assaulting etc. retail worker, NC46 Offence of assaulting etc. health and social care or transport worker, and NC62 Assault due to enforcement of statutory age restriction

Suzy Lamplugh Trust believes that everyone has a right to be safe at work, without the risk of violence and aggression. However, the CSEW shows that there is large variation in risk across occupational groups. For example, in 2019-20, health and social care associate professionals and health professionals faced higher than average risks at 3.9% and 3.3% as compared to average risk across all occupations at 1.4%.²¹ The Trust has also identified multiple risks to lone workers in the healthcare sector, following a project with Guy's and St. Thomas' Trust.

The Trust is also concerned that retail workers are particularly at risk from violence at work. In 2018, Suzy Lamplugh Trust surveyed over 1,000 retail workers about personal safety.²² Shockingly, 66% of respondents reported violence or aggression in the workplace. Furthermore, respondents perceived enforcement of age restriction on the retail of certain products as a key underlying factor for this violence.²³

Furthermore, there have been reports of increased incidents of aggression against key workers during the pandemic. For example, research has found that abuse against retail workers has increased

²¹ CSEW combined data years ending March 2019 & 2020.

<https://www.hse.gov.uk/statistics/causinj/violence/work-related-violence-report.pdf>

²² <https://www.suzylamplugh.org/Handlers/Download.ashx?IDMF=b3dc07d0-0bd8-403d-9b55-ae011054c061>

²³ 51% of 515 respondents who perceived the incidents of violence or aggression to be driven primarily by issues being experienced by the aggressor him/herself.

since the start of the pandemic, with 9% of workers surveyed from August to December 2020 experiencing physical assault over the previous 12 months.²⁴

We therefore welcome NC45, NC46, and NC62. It is vital that key workers delivering important public services, such as in retail, health and social care, and transport, are able to safely carry out their work. We particularly welcome NC62 (as well as aggravated offence under NC45), given our research indicating that violence may be triggered by enforcement of age restriction.

However, we remain concerned that these new clauses do not holistically include *all* public facing workers who may experience abuse while working, such as library workers for example.²⁵ We are also unclear how NC46 will align with the Assaults on Emergency Workers (Offences) Act 2018.

Section 3. Recommendations:

1. Protections for all public facing workers through standalone offence.

In order to protect *all* public facing workers, we urge the government to support the call for a 'stand-alone offence of abusing, threatening or assaulting a public facing worker'.²⁶

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²⁴ <https://www.usdaw.org.uk/CMSPages/GetFile.aspx?guid=630d6f8e-73df-4ca2-a923-7f1251381614> & <https://www.usdaw.org.uk/CMSPages/GetFile.aspx?guid=575d4419-a739-432b-ab54-10e84ad56e26>

²⁵ <https://www.unison.org.uk/news/article/2020/01/library-workers-experienced-abuse-work/> & <https://www.unison.org.uk/news/article/2019/06/intolerable-call-centre-abuse/>

²⁶ <https://www.usdaw.org.uk/CMSPages/GetFile.aspx?guid=575d4419-a739-432b-ab54-10e84ad56e26>