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THE PROTECTION FROM HARASSMENT ACT 1997 – AN EVALUATION OF ITS USE AND EFFECTIVENESS

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Before the implementation of the Protection from Harassment Act, laws relating to harassment were inadequate. Whilst it was possible to prosecute the ‘stalker’ whose behaviour breached existing laws, nothing could be done about seemingly innocuous harassment which could be similarly upsetting and distressing to victims. The Act came into force in June 1997, and was intended to deal with the problem of stalking. Research was carried out to evaluate the use and effectiveness of the Act three years on. The key findings are outlined here.

KEY POINTS

- ▶ The study found that the Protection from Harassment Act is being used to deal with a variety of behaviour such as domestic and inter-neighbour disputes. It is rarely used for stalking as portrayed by the media since only a small minority of cases in the survey involved such behaviour.
- ▶ The most common reason given for harassment was that the complainant had ended an intimate relationship with the suspect (43% of all cases).
- ▶ The suspect and victim were known to each other in almost all cases (only 2% of suspects were strangers to the victim). Suspects were usually partners, ex-partners or relatives (41% of cases), acquaintances (41%) or neighbours (16%).
- ▶ Although victims tended to choose the police as their first point of contact when making a complaint, many were unaware of the Act and the remedies available. Victims had often endured the unwanted behaviour for a significant time before reporting it.
- ▶ 39% of harassment cases were dropped by the Crown Prosecution Service, compared with the national average for all offences of 14%. In nearly half of the cases dropped, the defendant agreed to be bound over.
- ▶ Overall, the conviction rate in cases resulting in a hearing was 84%. The sentence most frequently given was a conditional discharge (in 43% of convictions). Just over half of all convictions were accompanied by a restraining order.

The Protection from Harassment Act, which came into force in June 1997, aimed to tackle the problem of ‘stalking’, but it also covered a range of behaviour which might be classed more broadly as harassment of one kind or other.

The Act introduced two new criminal offences –

- a section 2 summary offence: conduct that amounts to harassment of another
- a section 4 either-way offence: where the victim fears that violence will be used.

For both offences there must be a ‘course’ of conduct which is defined as ‘conduct on at least

two occasions’. The court has the power to make a restraining order against those convicted in order to prevent a repetition of the harassment. The Act also introduced a civil remedy although this was not examined by the research.

Section 2 summary offence (i.e. triable only at magistrates’ courts): punishable by up to 6 months in prison or a maximum fine of £5,000, or both.
Section 4 either-way offence (i.e. can be tried at the Crown Court or at magistrates’ courts): punishable by up to 5 years in prison or an unlimited fine, or both.

In 1998, 4,300 persons were proceeded against for s2 offences and 1,500 for s4. This research was commissioned to evaluate the use and effectiveness of the Act. The study examined 167 Protection from Harassment cases sent by the police to the Crown Prosecution Service (CPS) during 1998 for a decision on prosecution. Using CPS files as the main source of information, details were recorded about the characteristics of each case and its progress through the criminal justice system. Interviews were also carried out with police officers, Crown Prosecutors, magistrates and victims of harassment.

THE NATURE OF HARASSMENT CASES

The media portrayal of stalking is of 'repetitive, unwanted attention, communications or approaches' (Farnham et al., 2000) from obsessive, psychotic strangers or fanatics. In fact, this study found that the kind of behaviour dealt with under the Protection from Harassment Act was linked less with strangers or people with mental illnesses than with the unwanted attentions of ex-partners and harassment by neighbours. For more information on stalking see Budd and Mattinson (2000).

The suspect and victim were known to each other in almost all cases (they were strangers in only 2% of cases). Suspects were usually partners, ex-partners or relatives (41% of cases), acquaintances (41%) or neighbours (16%).

The most common reason for harassment was that the complainant had ended an intimate relationship with the suspect – 83% of cases involving intimates (see Table 1). Harassment among neighbours most often arose from disputes relating to property or money, or from jealousy.

80% of suspects were male; 79% of victims were female.

The study identified several different types of behaviour which constituted harassment, including:

- threats (either face-to-face or by telephone)
- a range of distressing behaviour, such as following the victim, waiting outside their house or making silent telephone calls
- damaging the victim's property
- use of violence

- miscellaneous other actions, such as sending unwelcome gifts or ordering unwanted taxis on the complainant's behalf.

POLICE ACTION

Victims usually chose the police as their first point of contact when making a complaint. However, most complainants interviewed were not aware of the protection from the Act or of what to expect before they reported incidents of harassment to the police. About half of those interviewed had endured unwanted behaviour for a significant time before reporting it.

The police must establish that a 'course' of conduct amounting to harassment has occurred before they can make an arrest. In a third of cases the suspect was arrested when a third complaint was made. In a few cases, the police waited until a fourth or fifth complaint. In a tenth of cases, they arrested (incorrectly) when there had apparently only been one complaint. However, two of these cases involved harassment by strangers and violence. Nearly two-thirds of suspects had been warned on a previous occasion about their behaviour.

In most cases the statement of the victim provided valuable evidence, but it is important that there is corroboration so that the case does not depend only on the victim's word against that of the complainant. Among the important sources of evidence collected by the police were:

- evidence from other eye-witnesses
- documentary evidence (e.g. logs of incidents of harassment)
- material or forensic evidence
- medical evidence (e.g. of the psychological effect on the victim or of injuries)
- records of prior police warnings issued to the suspect.

Evidence of previous incidents was not always consistently recorded by the police or readily accessible by other officers who might get called to deal with similar situations involving the same parties.

Nationally, about three times as many defendants are proceeded against for the less serious section 2 offence as for the section 4 offence. Officers

Table 1 Principal reasons for harassment

	Acquaintances	Intimates	Neighbours	Strangers	All
	%	%	%	%	%
Complainant ended relationship	23	83	–	–	43
Disputes over property/money	2	–	86	–	14
Personal dispute	51	10	–	–	25
Business dispute	6	–	–	–	3
No apparent reason	–	–	–	80	2
Mentally disordered suspect	9	2	6	20	7
Suspect is in love with complainant	7	–	–	–	3
Issues regarding access to children	–	5	–	–	2
Racially motivated	1	–	8	–	2
	No.	No.	No.	No.	No.
Total	64	68	22	3	157

Note: n=157. Information on reasons for harassment and complainant/suspect relationship was missing in ten cases. Percentages do not always sum to 100 due to rounding.

Table 2 Principal sentence by offence

	Protection from Harassment Act		Other conviction	All cases
	Section 2	Section 4		
	%	%	%	%
Bound over	12	46	12	16
Conditional discharge	37	46	77	43
Fine	14	–	–	10
Compensation order	2	–	–	2
Community sentence ¹	32	–	12	25
Imprisonment	4	8	–	3
	No.	No.	No.	No.
Total ²	48	11	15	74

Notes: 1 'Community sentence' includes: probation order with/without requirements, community service order, attendance centre order and combination order.

2 Unweighted n=74, information was missing in 4 cases. Percentages may not sum to 100 due to rounding.

interviewed suggested that it was easier to prove the lower level offence, since they did not have to show that the victim feared that violence would be used. However, they were not always clear as to the difference between the two offences.

The officers dealing with cases generally kept victims well informed up to the time of charge, but the provision of information was not always so good after this point. The lack of information at these later stages was felt by some victims to be one aspect of a wider problem of lack of support in helping them through the court process.

THE PROSECUTION PROCESS AND COURT PROCEEDINGS

Once the police have charged a suspect, the case is submitted to the CPS, who review the case and decide whether to proceed with a prosecution. 39% of harassment cases were dropped by the CPS, compared with the national average for all offences of 14%. No cases involving strangers were dropped. Cases involving neighbour disputes were the most likely to be dropped (nearly half). In nearly half of terminated cases the defendant agreed to be bound over.

The great majority of terminations were on the grounds of insufficient evidence but in one-third of terminations the case was dropped because the victim did not wish to proceed.

Relatively few cases (6% of those terminated) were dropped because a suspect had a mental disorder. In the few cases where there were grounds to believe that the suspect was mentally disordered, practitioners felt that it was preferable (unless the disorder was severe) to proceed with the case to obtain a restraining order. This is only available by securing a criminal conviction in the courts.

As with those given police bail, most defendants bailed by the court were given bail conditions designed to keep them away from the victim. Over 20% were known to have breached these conditions. 10% were held in custody after their first court appearance.

Where cases proceeded to a hearing, 63% of defendants pleaded guilty. Of the remainder, 18% were convicted following a contested trial, while the case against 16% was dismissed. The remaining 3% were committed to the Crown Court and all

were convicted.

Overall, the conviction rate in cases resulting in a hearing was 84%. The sentence most frequently awarded was a conditional discharge (in 43% of convictions). Table 2 shows the sentences given to those convicted of harassment, as well as for other offences where the initial charge had been one of harassment. Conditional discharge and other sentences were often accompanied by a restraining order (in just over half of convictions). Restraining orders were most frequently issued (79%) in conjunction with a conditional discharge.

Restraining orders were usually specified to run for 12 or 18 months and, like bail conditions, made stipulations designed to stop the offender continuing their harassing behaviour (see Table 3).

Few breaches of restraining orders were picked up by the research. This was partly due to the limited follow-up period which was under six months; but it also seems from information obtained in interviews with victims that breaches do occur which are not effectively policed.

Table 3 Conditions of restraining orders

	Cases
	%
Do not contact victim	94
Keep away from victim's home	51
Do not contact victim's family	18
Keep away from victim's workplace	18
Other	19
Total No.	30

Notes: Percentages are proportions of cases with restraining orders in which each type of condition was imposed. n=30 unweighted (in 5 cases information about conditions imposed was not available).

PRACTITIONERS' VIEWS

Most practitioners interviewed welcomed the Act as they felt it enabled intervention in cases of harassment where little could be done before. Magistrates felt confident in dealing with harassment cases, although such cases were not common.

The restraining order was considered the most important feature of the legislation, as practitioners believed these orders protected the victim.

However, for restraining orders to be effective it was felt to be important to:

- inform victims of the order and its conditions
- investigate all the circumstances of the harassment before framing the order
- police breaches of the order effectively.

Among issues raised in interviews were:

- uncertainties among the police about when section 2 and section 4 charges were most appropriate
- the circumstances in which the police should seek CPS advice before charge
- the need for further guidance and training in the use of the Act
- the need to keep victims informed more effectively and support them through the pre-trial and court process.

CONCLUSIONS

The evaluation of the Act suggests the key components for effectiveness are that:

- the police should pursue appropriate action at the right time
- victims should be aware of the remedies available to them
- there should be a rigorous approach to the prosecution of offenders
- appropriate sentences are passed and executed and restraining orders are used effectively.

The research suggests that improvements are needed in each of the following areas.

The police

They need to be clear about what can be taken to constitute a 'course' of harassment, what proof is required and how best to proceed with a case. National guidelines and training may partly address these issues. Practices relating to collecting evidence and in seeking CPS advice need to be re-examined.

Information for victims

There may be a need for greater publicity about the remedies for harassment contained in the Act.

Effective prosecution

One-third of cases were dropped because the victim did not wish to proceed. This suggests that greater support for victims during the pre-trial and trial process is needed. Another implication is that only cases suitable for criminal prosecution should be filtered into the criminal process by the police in the first place.

The operation of restraining orders

Restraining orders are effectively the teeth of the Act – it is surprising that they are not invariably used in harassment convictions. But, more importantly, where they are used:

- they should be framed in a way which is likely to maximise their effectiveness
- victims should be aware of the orders and what to do if they are breached
- there should be an effective police and court response to breaches.

METHODOLOGICAL NOTE

A sample of 167 Protection from Harassment cases sent by the police to the CPS during 1998 for a decision on prosecution were examined (104 s2 and 63 s4 cases). The cases were drawn from four areas which represented a mixture of urban, rural and metropolitan regions. Using CPS files, details were recorded about the characteristics of each case and its progress through the criminal justice system. Two focus groups were carried out in each of the four areas with police, prosecutors and magistrates and 20 victims of harassment were interviewed.

REFERENCES

Budd, T. and Mattinson, J. (2000) *The extent and nature of stalking: findings from the 1998 British Crime Survey*. Home Office Research Study No. 210 and *Stalking: findings from the 1998 British Crime Survey*. Home Office Research Findings No. 129. London: Home Office.

Farnham, F.R., James, D.V. and Cantrell, P. (2000) Association between violence, psychosis and relationship to victim in stalkers. *The Lancet*, Vol 355.

For a more detailed report, see *An evaluation of the use and effectiveness of the Protection from Harassment Act* by Jessica Harris (2000). Home Office Research Study No. 203. London: Home Office. Copies are available from Communications Development Unit (address below).

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