



Stalking Protection Act (2019) & Stalking Protection Orders

Abstract

This policy details how Surrey Police will issue Stalking Protection Orders (SPOs).

Policy

1. Introduction

1.1 **Surrey Police (hereafter referred to as the Force) issues Stalking Protection Orders (SPOs) brought into law through the Stalking Protection Act (2019).**

1.2 This policy must be read in conjunction with the Force Stalking and Harassment Policy:

- Surrey Stalking and Harassment Policy

2. Scope

2.1 This policy and associated procedures 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.

3. Policy Statement

3.1 The Force will ensure the appropriate use of SPOs to support their overarching aim to keep **people** safe by ensuring the correct safety measures are adopted to suit the needs of the individuals involved. In line with the joint CPS and NPCC Stalking & Harassment 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 or harassment 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 or harassment cases; and
- To reflect the College of Policing's Authorised Professional Practice (APP) and CPS policy.

- 3.2 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.
- 3.3 The policy complies with the APP guidance on stalking/harassment and domestic abuse-related crimes and incidents.
- 3.4 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.

Procedure

1. Introduction

- 1.1 Surrey 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 Stalking and Harassment Policy and the Domestic Abuse Policy. This document sets out the procedure for applying for Stalking Protection Order (SPOs), and the subsequent management of perpetrators under SPOs. SPOs are a new power, granted under the Stalking Protection Act (2019).
- 1.2 SPOs can both prohibit a person from doing anything described in the Order and require them to do anything described in the Order.
- 1.3 Breach of an SPO, without reasonable excuse, is an either way offence, attracting a maximum sentence of 5 years in prison on indictment.
- 1.4 SPOs come into use on 20th January 2020. Applications must not be made prior to this date, however, applications can be made retrospectively for behaviour that took place prior to enactment of the Stalking Protection Act (2019).

2. General Points regarding Applications

- 2.1 SPOs are granted by a Magistrates' Court upon application by a Chief Constable. In practice, applications will be made by Legal Services. An application will 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 must then be sent to Legal Services by the 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 what further material will be required to make the application, in order to persuade the court that the defendant:

- has carried out acts associated with stalking;

- that they pose a risk associated with stalking to another person; AND
- that making the Order is necessary to protect that/another person from such a risk.

2.2 An application can be made for a 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 a SPO, as long as the court can be satisfied as to the conditions set out at **para.2.1**. In the event of an application coinciding with criminal charges, the application will still be made via Legal Services and not through completion of section 9 of the MG5 form.

2.3 Applications for SPOs must 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 Surrey, 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 3 below. In kind, Surrey Police will progress applications relating to perpetrators residing in our area. The force where the victim resides must maintain responsibility for victim contact and safeguarding through the process. Applications can be made by England & Wales forces in relation to stalking behaviour that has occurred abroad, as long as the perpetrator resides in England or Wales.

2.3a Updates to the Statutory Guidance for Police states that when a victim and respondent (subject of the order) reside in different force areas, either at the time of the order being granted or as a result of a move whilst the order is in place, the respondent's local force must liaise with the victim's local force to fully understand the circumstances of the case and to ensure that the suggested prohibitions or requirements of any order are appropriate and that following a move, they remain appropriate.

2.4 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 a 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.

2.5 A SPO has effect either for a fixed period, specified in the Order (minimum 2 years), or until a further order. Different periods may be specified in relation to different prohibitions or requirements.

2.6 If the court has not yet made a determination regarding a 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 must not be made simply because there has been inadequate preparation for an application for a final order.

2.7 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.

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

3. Domestic Abuse Team (DAT) and Criminal Investigation Department (CID)

3.1 Due to the serious and complex nature of stalking, all such investigations will sit within these two departments. DAT will investigate DA-related cases of stalking, CID any other cases.

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

3.3 Before requesting Superintendent authority to make an SPO application, a new Niche occurrence **must** be created, with the crime type selected as 'Stalking Protection Order'. All application paperwork is to be attached to this new occurrence to allow effective monitoring of SPO applications.

3.4 Where bail conditions are used during an investigation, ideally the conditions must 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 and appropriate safeguarding options implemented.

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

3.6 The OIC must consult with their local High Harm Perpetrator Unit (HHPU) regarding appropriate conditions before submitting the application.

3.7 A positive requirement to attend an assessment for the COBI programme must be included.

3.8 It will be the DAT/CID OIC's responsibility to collate evidence to support a SPO application, complete the SPO OIC MG11 (see link below), 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 Surrey, who have exclusively offended elsewhere: These will be allocated and progressed by the relevant SIU or CID where the offender resides. Where the application is not successful at court the risk assessment will require review and appropriate safeguarding options to be implemented.

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

4. High Harm Perpetrator Unit (HHPU)

- 4.1 The HHPU for each division will be responsible for managing perpetrators subject to SPOs in their area. All SPOs will be added to the perpetrator's PNC record, and a Niche flag added.
- 4.1a Updates to the Statutory Guidance state that during the process of applying for an SPO, or during the time an SPO is in place, police must consider whether the respondent meets the criteria of a Potentially Dangerous Person and as such, whether they should be added to the Dangerous Persons Database (ViSOR).
- 4.2 Each perpetrator will be allocated a managing officer, who will record their activities on a Niche Stalking Protection Order Occurrence. This occurrence must contain a copy of the order attached to the OEL, details of the conditions of the SPO and a bespoke management plan, 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 HHPU managing officer, in liaison with partner agencies as necessary.
- 4.3 For each perpetrator subject to a SPO, the managing officer must consider whether the case must be referred into MAPPA and/or MARAC, if it has not been already.
- 4.4 Should a perpetrator be identified as committing further offences during the course of their management, investigation of those offences will not be undertaken by HHPU and will revert to the usual department (CID/DAT). However, this may still necessitate an early arrest by HHPU officers discovering the offences to protect the victim/s and then a handover to the most appropriate department as necessary. The only exception to this is breaches of SPO, which will be progressed by HHPU. If a breach of SPO involves further stalking behaviour, this must be treated as a fresh stalking investigation and referred to DAT/CID immediately for further risk assessment and implementation of appropriate safeguarding options.
- 4.5 It is expected that any perpetrators subject to HHPU management due to a SPO will be treated as any other HHPU 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 must 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 very exceptional circumstances and any rationale for this must be recorded and ratified by a supervisor.
- 5. Discharge, renewal and variation of a SPO may be sought by either the perpetrator, or by the police force that has responsibility for their management.**

- 5.1 This may not occur before 2 years unless with the consent of the other parties. Legal Services will be responsible for representing Surrey Police's interests at any such hearings. The officer with responsibility for victim care must ensure they seek the victim's views in advance of any such hearing, and these must be included in the evidence presented to the court.

6. Notification at Police Station

- 6.1 The issuing court will make the relevant HHPU aware by email that the order has been granted.
- 6.2 Perpetrators with a 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. Front Counters Staff will

6.3 record this information using the notification requirement form (link below) and complete a MSS to update PNC of the notification details. Front Counters Staff will then notify the relevant HHPU by forwarding the completed notification form in the post.

6.4 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.

6.5 HHPU will be responsible for investigating breaches of SPO notification requirements for their offenders.

7. Example Conditions (these lists are not exhaustive, and each application must be considered on its own circumstances)

7.1 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.

7.2 The conditions of the order could include positive requirements to:

- engage with the local HHPU.
- 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.
- attend an assessment for the COBI programme and complete the programme as directed by Interventions Alliance.

7.2a The aforementioned update to Statutory Guidance in January 2021 states that police are to ensure that when drafting an application for an SPO, the proposed conditions are clear, specific and proportionate to the case in order to assist the courts in imposing the most appropriate conditions. The updated guidance further states that any positive requirements, such as requirement to attend a perpetrator intervention programme are appropriate to the specific stalking behaviour demonstrated and the circumstances of the case.

8. Breaches SPO P&P

8.1 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

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

9. Additional Guidance

9.1 For guidance from the College of Policing in regards to Stalking and SPO use the links below:

College of Policing Stalking or harassment (SPO guidance and advice). /

College of Policing Stalking Protection Order National Forms

College of Policing Context and Dynamics of Domestic Abuse