

Sentencing Council

NPCC Criminal Justice Co-ordination Committee: Police use of Warnings & Notices.

Action: Use of Police Warnings in Witness Intimidation cases.

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This paper sets out the types of warnings and notices available to the Police in supporting victims and witnesses against certain acts or behaviour by an offender that may be considered Witness Intimidation or Interfere with the Course of Justice.

In the majority of cases such warnings and notices are available through existing legislation that target areas of high harm or vulnerability. In these instances the legislation provides the opportunity for the Police to apply for a notice from the courts, considered to be an order of the court, restricting the subject/offender on carrying out certain types of act or behaviour or threats thereof, whether directly or indirectly.

In the majority of cases such ancillary orders can be applied from both criminal and civil courts, providing a range of notices that are considered criminal offences if breached.

Such restrictions imposed on the subject of any order often includes a focus on the prevention of witness intimidation and the interference of justice, in addition to any harmful acts towards those it aims to protect.



For the purpose of this document the various types of warnings, notices and orders have been listed into 3 categories:

- 1) Warnings, Notices & Civil Orders directly linked to the prevention of harm, witness intimidation and the interference of justice.
- 2) Warnings, Notices & Civil Orders directly linked to the prevention of harm and further offending **and could also be considered for using** to prevent witness intimidation or interference of justice.
- 3) Warnings, Notices & Civil Orders that solely relate to the prevention of harm or protection of others.

In practice many of the orders listed will be applied for in consultation with other agencies and third party advocacy services. Whilst those working in Police Public Protection and Safeguarding Teams are often seen as being critical in supporting vulnerable victims and witnesses, equally there a number of orders that are more appropriate for Neighbourhood Policing Teams (NPT) or Serious & Organised Crime Units (SOCU) to apply for.

1: Warnings, Notices & Civil Orders that are directly linked to the prevention of harm, witness intimidation and the interference of justice.

This first list of Civil Orders are frequently sought in order to support and protect victims and witnesses from a range of behaviours associated to the perpetrator of both reported crimes and non-crime incidents.

- **Domestic Violence Protection Notice and Order (DVPN/DVPO) - Section 24-33 Crime and Security Act 2010**

DVPNs/DVPOs are a civil order that fills a “gap” in providing protection to victims by enabling the police & magistrates to put in place protective measures in the immediate aftermath of a Domestic Abuse (DA) incident where there is insufficient evidence to charge a perpetrator.

DVPNs are prepared by dedicated officers within Police Safeguarding Teams. They are generally used for DA cases that are likely to end up NFA based on the victim’s limited engagement and history of abuse where the cases have failed to proceed. The focus of the DVPN is to provide an element of “breathing space” for the victim so that support & advocacy services can engage with and support the victim. They can only be obtained whilst the suspect is in custody for a DA related crime where the use of Bail conditions is unlikely.

A Superintendent or above must authorise a DVPN who will consider factors such as proportionality, necessity and protective measures for the victim. Once obtained an application to make the DVPN into a DVPO must occur within 48 hours of the DVPN being issued. The order will come with a power of arrest and if breached is a criminal offence.

Police present the DVPO case to court, either in person or virtually. Once issued details of the DVPO are loaded onto PNC. Management of those on DVPOs varies across forces, in the Metropolitan Police Service (MPS) the Prolific Offender Unit will manage these and target high harm offenders where breaches have occurred, including incidents of victim & witness interference.

DVPNs/DVPOs are soon to be replaced by the Domestic Abuse Prevention Order (DAPO) under the Domestic Act 2021.

- **Stalking Protection Order (SPO) - The Stalking Protection Act 2019**

This 2019 Act provides for early police intervention at the pre-conviction stage, to address stalking behaviour, before it escalates or becomes entrenched, by placing restrictions and/or positive requirements on suspects.

SPOs are generated following details of a reported Harassment or Stalking case recorded on the respective force crime recording system (MPS: CRIS & soon to be CONNECT). The case is reviewed by a nominated Detective within the Safeguarding team to establish if the incident meets the threshold for an SPO, with the OIC subsequently tasked to obtaining the order. The OIC then collates the relevant Statements and arrests the suspect before seeking authorisation from a Superintendent for the SPO. Once authorised a DC within the Safeguarding Unit will present the SPO request to the local court, highlighting the 3 main criteria of: Stalking is occurring, the risk to the victim and necessity to protect the victim.

Once granted a summons is issued which is served by the Safeguarding team on the suspect. Courts can issue full or Interim orders depending if there are issues raised by the defence team during application, however ultimately a full order will be sought and issued. Breach of the order is a criminal offence.

SPOs can be a standalone order- the burden of proof is civil for interim orders but become criminal for a full order. Victims are not required for SPO hearings.

- **Restraining Orders - Restraining Order (RO)- s.5 of the Protection from Harassment Act 1997**

ROs are issued either post-conviction or post-acquittal for the purpose of protecting a victim or victims, or any other person named, from conduct by the perpetrator which amounts to harassment or cause a fear of violence. This could include post-conviction witness intimidation.

In practice the orders can include the same conditions as those documented within an SPO and often sought as part of the post-investigation process by Safeguarding teams once the case has gone to trial and a conviction is likely. Any breach is considered a criminal offence and similar to DVPOs, will be pro-actively monitored by the Police and support services available to the victim. Such breaches often feature during MARAC and MASH meetings.

- **Non-Molestation Order (NMO)- s.42 of the Family Law Act 1996**

An NMO is a type of injunction that you can apply for through the family court. These orders are granted in order to prevent a perpetrator from causing harm to the victim or their children. The term "Harm" includes physical abuse, harassment, intimidation, psychological abuse, threats to cause harm, coercive/controlling behaviour and financial abuse.

Safeguarding teams will consider a non-molestation application alongside any SPO where the investigation is for a DA offence only, as both can run hand in hand. Often the restrictions in the NMO are the same as that in an SPO. Any breach of a NMO is a criminal offence with the breach recorded on PNC. Like ROs they are often monitored by Police Safeguarding Teams and 3rd party support services (for example IDVAs), again featuring frequently at MARAC & MASH meetings.

- **Protection from Harassment Order - Section 3A Protection from Harassment Act 1997**

Harassment warnings/notices. These no longer exist and were replaced by SPOs.

2: Warnings, Notices & Civil Orders directly linked to the prevention of harm and further offending and could also be considered to assist in preventing witness intimidation or interference of justice.

The following category of orders are not specifically designed to prevent offences such as witness intimidation or the interference of justice. However the behaviours they are associated with and the restrictions available within these orders can be considered in the management or prevention of such offences.

- **Violent Offences Protection Order and Notification (VOPO) - Section 98 of the Criminal Justice and Immigration Act 2008**

These orders are issued post-conviction for a specified offence or where the subject would have been convicted but is not guilty by reason of insanity or unfit to be tried (but charged).

VOPOs are used for offenders who continue to pose a risk of serious violence after their release from prison or when their licence has ceased. They are a preventative measure which are used to place controls on violent offenders in circumstances where they could potentially pose a danger to the public by placing restrictions on their behaviour.

Restrictions can include banning or limiting the offender from doing certain activities, visiting certain places or seeing certain people. In doing so the restrictions on seeing other people may well prevent cases of witness intimidation.

In practice these often form part of the MAPPA process as a consideration in managing Category 3 offenders who are deemed particularly violent individuals. They can also be applied for subjects who have committed offences & crimes abroad.

- **Serious Crime Prevention Order (SCPO)- Serious Crime Act 2007**

SCPOs are applied for via the Crown Court if a person has been convicted of a serious offence, or the High Court for a standalone application where the person has been involved in serious crime.

The aim of the order is to protect the public by preventing, restricting or disrupting involvement of the subject in serious crime. Restrictions imposed include financial, property or business dealings, travel restrictions and association/communication with other persons.

Given the severity of the cases these relate to in practice they are generally applied for by Police SOCUs and other specialist commands. Depending on the restrictions applied for regarding people associations, SCPOs could be considered for cases of witness intimidation or interference of justice.

- **Criminal Behaviour Order (CBO) - Section 22 Anti-social Behaviour, Crime and Policing Act 2014**

A CBO is designed to tackle the most serious and persistent anti-social individuals where their behaviour has brought them before a criminal court. The anti-social behaviour to be addressed does not need to be connected to the criminal activity which led to the conviction.

CBOs replaced Anti-Social Behaviour Order's (ASBO). They can be issued following conviction for any criminal offence by the courts and can prohibit the offender from doing anything described in the order. Courts must be satisfied that the offender has engaged in activity that amounts to harassment, alarm or distress. They typically last 1 to 3 years.

In practice CBOs are often coordinated through a multi-agency approach and can address typical ASB related issues, Hate Crime, Gang related crime and occasionally Domestic Abuse (DA). Whilst not often used for DA they can be an effective tool where a lesser type of order is required or where other civil orders may not be deemed suitable or available. These will often be considered at a MARAC or MASH. Given the issues of ASB linked to vulnerable victims they can be a useful notice/order in preventing witness intimidation or further offences.

Civil versions of CBOs namely Community Protection Notices (CPN) are available but only to address ASB, therefore not appropriate for managing witness intimidation.

- **Civil Injunction - Section 1 Anti-Social Behaviour, Crime and Policing Act 2014**

An injunction can be made against any person aged ten or over who has acted in an anti-social manner. It's a type of civil law remedy and isn't intended to punish the offender. An injunction is a court order to prohibit a person from continuing to carry out specified anti-social acts.

Injunctions can include a power of arrest in cases where the perpetrator has used or threatened violence, or if there is a significant risk of harm to others. Breaching an injunction is not a criminal offence. These could be considered for witness intimidation but in practice other available orders are more likely to be sought.

[3: Warnings, Notices & Civil Orders that solely relate to the prevention of harm or protection of others.](#)

The following listed set of orders and notices are based on protecting the wider public from harm and/or to prevent the subject from committing further offences. Whilst commonly used by Police Forces they do not have a direct correlation to offences of witness intimidation.

- **Gang Related Violence Injunction - Sections 34-50 Policing and Crime Act 2009**

Gang injunctions allow courts to place a range of prohibitions and requirements on the behaviour and activities of a person involved in gang-related violence. These conditions could include prohibiting someone from being in a particular place or requiring them to participate in rehabilitative activities.

Police and local authorities can apply for injunctions to prevent gang related violence and drug dealing activity. They typically last for 2 years.

- **Sexual Risk Order (SRO) - Section 122A of the Sexual Offences Act 2003**
- **Sexual Harm Prevention Order (SHPO) - Section 103A of the Sexual Offences Act 2003**

SHPO/SROs can be applied for either whilst the offender is in court in relation to an offence in Schedule 3 or 5 of the SOA 2003 or where a Chief Officer of Police or the Director General of the National Crime Agency applies by complaint to a Magistrates' Court.

Prohibitions imposed by a SHPO are those which are necessary for the purpose of protecting the public from sexual harm from the defendant. An order may, for example, prohibit someone from undertaking certain forms of employment or prohibit the offender from engaging in particular activities on the internet. Breach of an SHPO is a criminal offence.

- **Notification Order (NO) - Section 97 Sexual Offences Act 2003**

Section 97 provides a power for the police to apply to the magistrates' court for an order making an offender who has been convicted, cautioned or had a relevant finding made against them, in respect of a "relevant offence" (certain Sexual related offences within the 2003 Sexual Offences Act & relevant offence if abroad). The order requires the subject to register their personal details with the Police. Breaches will result in arrest and conviction at court for a more stringent sentence.

Notification Orders can be made where a person has a conviction for an equivalent sexual offence, outside of the United Kingdom and they are found, or anticipated to reside within the force area. There is no requirement to consider that the person is currently subject of investigation for another matter, or poses an identified risk of harm, mere confirmation of a qualifying foreign offence is sufficient for the order to be made.

- **Slavery and Trafficking Prevention Order - Section 14 & 15 of the Modern Slavery Act 2015**
- **Slavery and Trafficking Risk Order - Section 23 of the Modern Slavery Act 2015**

STPOs are civil orders aimed at protecting the public in general or specific persons from the physical or psychological harm which would result if the defendant committed a slavery or trafficking offence. They are a preventative measure to deter unlawful and harmful activity.

An STPO on conviction can be made by a court at the point of conviction of a defendant convicted of a slavery or trafficking offence where there is a risk that the defendant may commit another slavery or human trafficking offence and poses a risk of harm to the public.

- **Threats to Life Warning Notices (Osman Warning)- 1998 legal case of Osman vs United Kingdom**

Threat to life warnings (Commonly known as Osman warnings) are issued if police have intelligence of a real and immediate threat to the life of an individual. Police officers will visit the subject at home to inform them of the potential danger. Advice to the subject will include changing their daily schedule, vigilance for suspicious activity and a temporary home move.

Threat to life warnings' are a police response to the human rights court's requirement that the state sometimes has to be proactive in protecting people from threats.

- **Female Genital Mutilation Order (FGMO) - Section 5A of the FGM Act 2003**

Protecting persons at risk or known to be at risk of FGM or had FGM carried out on them.

- **Forced Marriage Protection Order (FMPO) - Section 63A Family Law Act 1996**

Protecting people from being forced into marriages or already in a forced marriage.

- **Section 59 warning - Section 59 Police Reform Act 2002.**

For the anti-social use of motor vehicles.

- **Premises Closure Order (PCO)- ASB Anti-social Behaviour, Crime and Policing Act 2014**

Applications for PCOs are effective in targeting premises where residents have engaged in disorderly, offensive or criminal behaviour on the premises, or that the use of the premises has resulted in serious nuisance to members of the public. The PCO is necessary to prevent the behaviour, nuisance or disorder from continuing, recurring or occurring.

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