

Preventive Justice and the Policing of Stalking in the UK: A mixed-methods  
study of Stalking Protection Orders

Taylor Skevington

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Department of Sociology and Criminology

University of Essex

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## **Abstract**

Stalking is a significant problem, impacting 14.7% of people aged 16 and over in England and Wales in the year ending March 2024. Despite widespread recognition that stalking is a serious and harmful crime, conviction rates for stalking are vanishing, reaching just 1.7% in the year ending March 2023. In January 2020, the government introduced Stalking Protection Orders (SPOs), in the latest move in a growing trend towards adopting civil measures to enable police to respond more effectively to apparently intractable kinds of crime. These allow police to intervene earlier in stalking cases by imposing restrictions on stalkers' movements and communications, as well as positive requirements such as attending intervention programmes. Breaching an SPO is a criminal offence that carries penalties of up to five years in prison.

This study is the first to situate SPOs within the preventive turn in criminal law and the use of hybrid civil-criminal measures. It examines how SPOs are utilised by the police and courts. To do so, qualitative data on using SPOs were gathered through semi-structured interviews with practitioners working in the police, legal, advocacy and victim support services. Quantitative data on SPO applications, court grants, and breaches were also collected.

The findings indicate that while SPOs are a beneficial tool when implemented appropriately, several barriers hinder their effectiveness. These include a lack of awareness about SPOs among police officers and a time-consuming application process. The full potential of SPOs is not being realised, highlighting the need for increased efforts by police to apply for these orders to enhance the policing of stalking cases. Breaches of SPOs have not replaced criminal proceedings for stalking, but are often overshadowed by orders like restraining orders. These findings indicate that systemic reform is needed to ensure that protective legal tools such as SPOs operate successfully.

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## Chapter 1: Introduction

Stalking is a serious and complex phenomenon, comprising various behaviours. Although no universally agreed definition of stalking currently exists, stalking generally involves a series of intrusive, repeated and unwanted actions that can be reasonably expected to cause victims distress and fear (Mullen *et al.*, 2000; Short *et al.*, 2022). The impact of stalking is significant, with victims at risk of physical violence (McEwan *et al.*, 2017) and psychological harm (Hauch and Elklit, 2023). Despite this, stalking has only received attention from researchers in the last twenty years, especially in the fields of psychology and criminology (Travaini *et al.*, 2024). Similarly, the impact of stalking has only recently been recognised by policymakers, as efforts within the criminal justice system to tackle stalking have increased from the 1990s onwards (Korkodeilou, 2017; Taylor-Dunn *et al.*, 2018). As part of an attempt to improve the criminal justice response to stalking, the government introduced Stalking Protection Orders (SPOs) in England and Wales in 2020 as a tool to enable quicker police intervention in stalking cases. However, despite being active for five years, research on whether and, if so, how SPOs work is scarce, excluding official reports.

This study addresses the limited empirical research on SPOs by investigating how SPOs are used by the criminal justice system. The study presents data collected from 44 respondent police forces in England and Wales, the HM Courts and Tribunals Service (HMCTS) and the Crown Prosecution Service (CPS) using Freedom of Information (FOI) requests, to examine the number of SPO applications, court grants, and breaches recorded by each force and in England and Wales overall. To supplement gaps in the data, secondary data from the Home Office and Office for National Statistics are also used to calculate the rate of SPOs in police forces in comparison to the force population and number of stalking incidents. Next, the study explores insights from 17 practitioners working in the police, legal, advocacy and victim support sectors to gain insight into how SPOs are being used to tackle stalking and the

barriers to implementing them. Finally, preventive justice theory is used to examine how SPOs fit into the preventive turn in criminal law and extend the state's power beyond traditional criminal law.

This chapter provides the background to the study and presents the rationale underpinning the research. It begins by describing the development of stalking behaviour as a criminal offence, explaining how police in England and Wales identify stalking. Next, it examines the prevalence of stalking and the characteristics of stalkers and stalking victims, highlighting the severity and pervasiveness of the behaviour. The chapter then contextualises the study by reviewing the criminal justice responses to stalking, identifying issues associated with the policing of stalking generally and the introduction of SPOs more specifically. Finally, the chapter introduces the study's research questions, concluding with an outline of the thesis' structure.

### **History and identification of stalking**

To better understand the context in which SPOs have been introduced, it is crucial to first explain how the understanding and policing of stalking have progressed over time. Despite being a relatively 'old' behaviour, stalking has only recently been criminalised, with the state of California first doing so in 1991 (Meloy, 1999). This was prompted by a rising consciousness of the behaviour among the public following the highly publicised murder of actress Rebecca Schaeffer and several victims of domestic violence (Jordan *et al.*, 2021). Fuelled by media interest in celebrity stalking and, eventually, stalking by ex-intimates in domestic abuse cases, by 2001 all the states in the US had made stalking a criminal offence (Mullen *et al.*, 2001).

Following the US' lead, stalking laws were also established in other English-speaking jurisdictions, including the UK, during the early 1990s, while non-English-speaking jurisdictions in Europe and other continents followed over the next two decades (Aa, 2010). These laws initially conceived stalking as a precursor to serious violence and thus were designed to criminalise stalking to prevent an escalation into another offence, such as assault or homicide (Brandt and Voerman, 2020). However, more recent stalking laws have aimed to create ways of responding to and preventing the psychological harms that stalking itself can cause.

The Protection from Harassment Act 1997 was introduced in England and Wales in 1997, and constitutes the fundamental act relating to stalking and harassment offences. Initially, the Act criminalised only harassment, introducing two offences: pursuing a course of conduct amounting to harassment; and putting a person in fear of violence. However, following recommendations to include specific stalking offences in the Act, the Protection of Freedoms Act 2012 added two stalking offences. The first, under s.2A, allows harassment to be classified as stalking, and the second, under s.4A, specifically identifies 'stalking involving fear of violence or serious alarm or distress'.

However, stalking remains undefined in law, as the Act only gives examples of stalking behaviours. These include 'following a person', 'contacting, or attempting to contact, a person by any means' and 'monitoring the use by a person of the internet, email or any other form of electronic communication'. In the absence of a clear legal definition, the courts have had to interpret this criterion to determine whether defendants' behaviour constitutes stalking. For instance, in several cases, the courts have been required to test whether the defendant

‘knows or ought to know that the course of conduct amounts to harassment of the other person’, thereby constituting a stalking offence.<sup>1</sup>

The lack of a legal definition for stalking can also make it difficult for police to differentiate between harassment and stalking, especially as the Protection from Harassment Act 1997 identifies stalking as a form of harassment. However, whereas harassment generally describes unwanted behaviour that is repeated and causes distress or fear of violence, descriptions of stalking emphasise stalkers’ fixation on and obsession with their victims (Police.uk, 2025; College of Policing, 2025). To constitute either harassment or stalking, the behaviour must have occurred at least twice (Police.uk, 2025).

As no official definition of stalking exists, there is wide variation in the way that different institutions understand and interpret stalking behaviour. This ambiguity also extends to academia in general and the social sciences specifically, for the same reason (Fox *et al.*, 2011). Nevertheless, definitions of stalking that have been suggested generally recognise that it involves a course of conduct (typically two or more acts over a period of time), repeated and persistent behaviours and victims’ fear (Tjaden, 2009; Fox *et al.*, 2011; Short *et al.*, 2022). In the UK, the definition of stalking adopted by the largest and most respected anti-stalking charity and many others is as follows: ‘a pattern of fixated and obsessive behaviour, which is repeated, intrusive and causes fear of violence or engenders alarm and distress in the victim’ (Suzy Lamplugh Trust, 2021c). However, this differs slightly from the definition adopted by the police and CPS, which describes stalking as ‘a pattern of unwanted, fixated and obsessive behaviour which is intrusive’ (Home Office, 2025a). To simplify the identification of stalking, the mnemonic FOUR is also used by police, highlighting the four warning signs of stalking:

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<sup>1</sup> See cases such as R v Musharraf [2022] EWCA Crim 1482 and R v Parry [2024] 7 WLUK 252.

F – Fixated

O – Obsessive

U – Unwanted

R – Repeated

(Home Office, 2025a)

However, as will be shown later, these definitions of stalking have not proved helpful to police in distinguishing stalking behaviour, and they continue to face significant challenges in terms of identifying and responding to stalking. These challenges, in turn, have substantial implications for SPOs, which are explained further on in the chapter.

Stalking also significantly overlaps with other behaviours, further complicating how police identify and respond to it. For example, many cases of stalking or harassment fall under the definition of domestic abuse (CPS, 2025). The statutory definition in the Domestic Abuse Act 2021 describes domestic abuse as:

‘(2) Behaviour of a person (“A”) towards another person (“B”) is “domestic abuse” if—

(a) A and B are each aged 16 or over and are “personally connected” to each other,  
and

(b) the behaviour is abusive.

(3) Behaviour is “abusive” if it consists of any of the following—

(a) physical or sexual abuse;

(b) violent or threatening behaviour;

(c) controlling or coercive behaviour;

(d) economic abuse (see subsection (4));

(e) psychological, emotional or other abuse;

and it does not matter whether the behaviour consists of a single incident or a course of conduct.’

For behaviour to qualify as domestic abuse, both people need to be ‘personally connected’ to each other, which can include but is not limited to: married couples, civil partners, intimate personal relationships and relatives.

Research suggests that the link between domestic abuse and stalking is strong, with 84% of stalking cases between April and June 2020 involving a complaint against a former intimate partner, and three-quarters reporting that domestic abuse had previously occurred within the relationship (CPS, 2020). The connection between stalking and domestic abuse has also been examined in academia, and it has been found that stalking by intimate or ex-intimate partners is often linked to a higher risk of violence (Finn and Atkinson, 2009; Norris *et al.*, 2011; Sheridan and Roberts, 2011; Bendlin and Sheridan, 2019; White *et al.*, 2020).

Most concerningly, stalking has strong associations with domestic homicide. Many studies conducted in the UK have identified this trend using Domestic Abuse Related Death Reviews, formerly known as Domestic Homicide Review (DHR) reports.<sup>2</sup> Using DHRs as well as the website Counting Dead Women, and media reports, Monckton Smith *et al.* (2017) examined 358 cases involving a female victim and male perpetrator between 2012 and 2014 to explore the relationship between domestic homicide and stalking. The findings showed that not only did 94% of cases involve stalking behaviour, but also that 71% had involved or did involve an intimate relationship. Similar correlations have also been found between domestic homicide and stalking perpetrated online. In an analysis of 41 DHR documents based on domestic homicide cases and three interviews with victims or family members of domestic homicide, Todd *et al.* (2021) determined that technology and social media often

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<sup>2</sup> According to s.9 of the Domestic Violence, Crime and Victims Act 2004, Community Safety Partnerships, which have local responsibility for producing crime reduction strategies, are required to commence a multi-agency review after a domestic homicide (intimate or familial) has occurred involving those aged 16 or over (Home Office, 2018). Written reports from agencies that had contact with the perpetrator and/or the victim are obtained for review and discussions with family and friends. By doing so, DHRs aim to identify any shortcomings in the current case that can be improved to prevent future domestic homicides.

acted as facilitators. However, despite cyberstalking behaviours being evident in 58.5% of the cases, the role of technology was overlooked as a factor in 41.5% of the DHRs. It is this risk of violence that formed a major part of the rationale for introducing SPOs (Home Office, 2015).

Following the introduction of controlling or coercive behaviour as an offence in 2015, the distinctions between stalking, domestic abuse and coercive control became even more blurred (Wiener, 2017; Barlow and Walklate, 2022; Davies and Barlow, 2024). Although lawmakers commonly differentiate stalking as a distinct form of psychological control (Stark and Hester, 2019), academic research has often found that women frequently stalked by intimate partners view stalking as merely an extension of coercive control and part of their ‘usual’ abusive behaviour (Logan *et al.*, 2007). Notably, Stark (2007) maintained that stalking is the most prevalent behavioural element of coercive control following assault and thus is intrinsically linked with domestic violence as a form of intimidation and control in domestic stalking.

The varying definitions of stalking and overlaps between domestic abuse and coercive control have significant implications for SPOs. Firstly, as it is the responsibility of the police to apply for SPOs, the use of SPOs heavily relies on police understanding what stalking involves and identifying the need for an SPO in stalking cases. Moreover, overlaps between stalking, domestic abuse and coercive control mean that measures or charges implemented for one offence may be used over another. To discover whether these overlaps are affecting the use of SPOs, this study seeks to investigate whether other measures or orders, such as Domestic Violence Protection Notices and Orders (DVPNs and DVPOs), were applied more than SPOs for stalking offences. The findings regarding the use of other protective measures for stalking are discussed in **Chapter 5**.

## **Prevalence of stalking**

To gain insight into the drivers of SPOs and contextualise their use by the police and courts, an appreciation of the prevalence of stalking is essential. Despite variations in how stalking is defined and the different methodologies used and populations examined in studies, research strongly indicates that stalking is prevalent and impacts a significant number of people (James and MacKenzie, 2018). While it is not possible to give a precise figure for stalking in England and Wales for this very reason, reviewing data on the number of stalking incidents and victims nonetheless provides a useful indication of the scale of the problem.

According to the Crime Survey for England and Wales (CSEW), which is a representative survey of members of the public, 14.7% of all respondents over the age of 16 – 20.6% of women and 8.7% of men – had been victimised by stalking in the year ending March 2024 (Office for National Statistics, 2024d). Comparatively, police figures on stalking are significantly lower, with 697,632 stalking and harassment offences recorded by police in the year ending December 2022, comprising a third (34%) of all police-recorded violence (Office for National Statistics, 2023). This figure represents a 44% increase from the year ending March 2020, which indicates that the growth in stalking offences since 2015 has continued (Office for National Statistics, 2023; Home Office, 2025b). However, the measurement of violent crimes such as stalking and harassment differs between the CSEW and policing figures, with the CSEW being deemed a more reliable measure of long-term trends in stalking and harassment (Office for National Statistics, 2024a). Police figures on stalking are also influenced by significant under-reporting due to victims or cases not being recorded by police (Jerath *et al.*, 2022). Nevertheless, police data shows how many stalking incidents victims report and therefore indicates the extent of the demand that stalking places on the police.

However, while stalking evidently impacts a significant number of people in England and Wales, policing of stalking has so far failed to address it effectively. As discussed later in the chapter, SPOs were introduced to address this failure in accountability and protection of victims by the police.

As SPOs only came into force in January 2020, the vast majority of stalking cases addressed by SPOs are likely to involve cyberstalking or online stalking behaviours. Official reports on the police response to stalking found this to be the case, although they concluded that police had repeatedly failed to recognise the severity of cyberstalking or treat online behaviours as evidence of a stalking crime (Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary *et al.*, 2024). As part of this study, the use of SPOs in response to cyberstalking was investigated: practitioners were asked how cyberstalking factored into SPO applications.<sup>3</sup>

Difficulties in identifying and understanding stalking by the police seem to be more pronounced when the behaviour is perpetrated online. Within academia, there is disagreement over whether stalking perpetrated online, or cyberstalking, is distinct from offline ‘traditional’ stalking (Ogilvie, 2000; Bocij and McFarlane, 2003; Pittaro, 2007; Sheridan and Grant, 2007). However, online and offline stalking are not distinguished in law, and there is no separate offence for cyberstalking. Consequently, online stalking behaviours can fall under multiple Acts, including: the Protection from Harassment Act 1997, the Malicious Communications Act 1998, the Communications Act 2003 (s.127) and the Online Safety Act 2023 (Part 10).

As a result, it is challenging to determine the prevalence of cyberstalking, as many official sources in the UK do not differentiate cyberstalking from general instances of stalking.

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<sup>3</sup> The FOI requests sent to police forces in England and Wales asked how many stalking incidents were flagged as cyber-dependent and/or cyber-enabled between January 2022 and December 2022. However, due to a lack of consistency in the data, these findings were not included in the study’s results.

Similarly, police figures do not generate a reliable measure of cyberstalking due to different procedures being used for the reporting and recording of stalking offences and the fact that data on police-recorded crimes highlighted as being performed online is limited. 15% of harassment and stalking offences in the year ending 2018 were identified as having an online component, although this is likely to be a significant underestimate (Office for National Statistics, 2019).<sup>4</sup> In contrast, the CSEW reported significantly higher figures, stating that 3.7% of men and 7.1% of women had been cyberstalked since the age of 16 in the year ending March 2024 (Office for National Statistics, 2024d).

Despite the problems associated with identifying cyberstalking, it has undoubtedly become a growing problem in the policing of stalking. As well as contributing to current issues related to the policing of stalking, cyberstalking has created a unique set of problems for police. In many cases, police do not regard cyberstalking as being as serious as offline stalking (Worsley *et al.*, 2017) and lack the training and access to technology required to identify and investigate it (Koziarski and Lee, 2020). Despite this, there have been efforts to improve the identification of cyberstalking, and the role played by technology in stalking has increasingly come to be acknowledged by academics and policymakers (Maple *et al.*, 2011; Home Office and HM Courts and Tribunals Service, 2023b; Taylor-Dunn and Erol, 2023; HM Inspectorate of Constabulary *et al.*, 2024). This is also the case for SPOs, with statutory guidance emphasising that it is appropriate for them to be applied to stalking online or ‘otherwise “digitally-enabled”’ (Home Office, 2024c).

Furthermore, research suggests that cyberstalking actually rose shortly after the implementation of SPOs. Several studies reported an increase in cyberstalking incidents during the lockdown imposed in response to the COVID-19 pandemic in March 2020, which

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<sup>4</sup> More recent data could not be found as the source dataset ‘Crime in England and Wales: Additional tables on fraud and cybercrime’ was discontinued after April 2019.

occurred only three months after SPOs were introduced. For example, the Suzy Lamplugh Trust (2021) found that 75% of survey participants who were currently or historically victims of stalking indicated that they had experienced online and offline behaviours. This finding aligned with data from the National Stalking Helpline, which showed that 100% of cases processed involved an online element. However, the report cautioned that this increase was relatively small, with 80% of calls and emails to the Helpline in the year before April 2020 referencing cyberstalking behaviours. This indicates that cyberstalking was already prevalent before the lockdown started. An early report on the consequences of the lockdown for stalking victimisation also suggested that cyberstalking had flourished during the lockdown, with victims recounting increases in online stalking and cyber abuse (Bracewell *et al.*, 2022). Based on these statistics and official reports on the use of SPOs (Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary *et al.*, 2024), it is likely that many of the cases where SPOs were applied for involved cyberstalking. Therefore, it was of interest to investigate whether SPOs were used to tackle cyberstalking and how this was achieved in practice.

### **Characteristics of stalking victims and perpetrators**

In line with the statistics provided by the CSEW, women are generally found to be disproportionately victimised by stalking, particularly young women in their late teens and early twenties (Miller, 2012). Contrastingly, men are more likely to be perpetrators of stalking, as supported by Spitzberg *et al.'s* (2010) research. They conducted a meta-analysis of stalking studies, which showed that 23.90% of men were perpetrators in comparison to

11.92% of women. According to these statistics, SPO respondents<sup>5</sup> are likely to comprise mainly men.

Due to these patterns, some academics regard stalking as a gendered crime akin to offences such as rape or domestic abuse, in which the majority of offenders are men and most victims are women (Lyndon *et al.*, 2012). Yet, Lyndon *et al.* (2012) suggest that the ‘gendered’ nature of stalking may be due to cultural support for the gendered pattern of male aggressor and female victim in social interactions between men and women. For instance, they argue that few, if any, gender differences have been observed in both stalking perpetration and victimisation when the definitions of stalking utilised in studies include unsolicited pursuit tactics as well as aggression and threats. Under-reporting of stalking by men is also likely to be a significant factor, as statistics show that only 20.5% of stalking reports to police were made by men in 2020/21, compared to 35% of stalking victims being male in the CSEW in 2019/20 (Office of the Kent Police and Crime Commissioner, 2021). While it is likely that SPO respondents are predominantly male and victims are mostly female, there may also be an under-representation of male victimisation.

### **Criminal justice responses to stalking in England and Wales**

Despite the prevalence of stalking, there is no evidence to suggest that criminal justice responses are tackling the behaviour effectively. Although the number of stalking crimes recorded by police has steadily increased since 2015, the proportion of crimes ending in a charge has fallen over the same period (HM Inspectorate of Constabulary *et al.*, 2024; Home Office, 2025b). Only 7.1% of stalking offences resulted in a charge in the year ending March 2023 (HM Inspectorate of Constabulary *et al.*, 2024; Home Office, 2025b). The conviction

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<sup>5</sup> In law, a respondent or defendant is the person who answers a legal action or complaint requiring them to take or stop a specific action or follow the court’s instructions.

rate for stalking is even lower, with just 1.7% of stalking offences leading to a conviction (Ministry of Justice, 2024; HM Inspectorate of Constabulary *et al.*, 2024).

As a result, the criminal justice system's response to stalking has received continual criticism for failing to protect victims and hold perpetrators accountable. In the first-ever review of the police and CPS response to stalking and harassment, Her Majesty's Inspectorate of Constabulary and Her Majesty's Crown Prosecution Service Inspectorate (2017) identified numerous issues associated with the current approach to dealing with stalking. Among the many problems, the misidentification of stalking, poor crime recording, and poor victim care by the police and CPS were some of the most detrimental.

Many of these issues have still not been sufficiently addressed, resulting in the Suzy Lamplugh Trust issuing a super-complaint<sup>6</sup> about the police response to stalking in 2022 on behalf of the National Stalking Consortium, a collaboration of organisations working in the field of stalking (Suzy Lamplugh Trust, 2022). Responding in September 2024, the HM Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS), the College of Policing, and the Independent Office for Police Conduct (IOPC) issued *The police response to stalking* report. The report confirmed most, if not all, of the criticisms listed in the super-complaint (HM Inspectorate of Constabulary *et al.*, 2024).

One of the primary complaints relating to the policing of stalking is inaction or inappropriate action by police (Her Majesty's Inspectorate of Constabulary and Her Majesty's Crown Prosecution Service Inspectorate, 2017; Worsley *et al.*, 2017; Taylor-Dunn *et al.*, 2018; Suzy Lamplugh Trust, 2021c; Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary *et al.*,

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<sup>6</sup> A police super-complaint is a complaint made by a body designated by the Home Office to the effect that 'a feature, or combination of features, of policing in England and Wales by one or more than one police force is, or appears to be, significantly harming the interests of the public' (Section 29A, Police Reform Act 2002). Super-complaints are made to HM Chief Inspector of Constabulary and are designed to distinguish and investigate current local, regional or national problems which are not addressed by existing police complaints systems.

2024). In many stalking cases, police opt to take no further action, due to officers claiming that there is a lack of evidence or no action that they can take in ways that have been criticised (Her Majesty's Inspectorate of Constabulary and Her Majesty's Crown Prosecution Service Inspectorate, 2017; Worsley *et al.*, 2017; Taylor-Dunn *et al.*, 2018; Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary *et al.*, 2024).

Conversely, in cases where police have acted, responses to stalking have been found to be highly inappropriate. Police often fail to recognise the severity of stalking, either minimising stalking behaviour or treating stalking incidents as single and unconnected, rather than identifying them as part of a wider pattern of stalking (Her Majesty's Inspectorate of Constabulary and Her Majesty's Crown Prosecution Service Inspectorate, 2017; Taylor-Dunn *et al.*, 2018; Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary *et al.*, 2024). This can lead to stalking being identified as harassment, meaning that cases may be charged inappropriately or not treated seriously. This could result in a lesser charge or restrict victims' options for protection, thus compromising their safety. In fact, this has occurred in several cases, with the super-complaint highlighting the murder of Alice Ruggles<sup>7</sup> as a prominent example of police misidentifying stalking and not putting appropriate protection measures in place as a result.

Research has also shown that interactions between the police and stalking victims, otherwise known as 'victim care', are often poor. For instance, cases have been identified in which police have given poor or even dangerous safeguarding advice to victims (Her Majesty's

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<sup>7</sup> Alice Ruggles was stalked and subsequently murdered by her ex-partner in October 2016. Despite Alice reporting numerous stalking behaviours to the police, they failed to identify the offence as stalking, instead recording the offence as harassment. In response, police issued a Police Information Notice (PIN), a measure that informs the respondent that a complaint has been received and that a charge may be pursued if the harassment continues. PINs are not enforced by legislation and therefore hold no legal weight. Following criticism of the inappropriate use of PINs in Her Majesty's Inspectorate of Constabulary and Her Majesty's Crown Prosecution Service Inspectorate's (2017) report on the police and CPS response to harassment and stalking, PINs are no longer used for stalking.

Inspectorate of Constabulary and Her Majesty's Crown Prosecution Service Inspectorate, 2017; Taylor-Dunn *et al.*, 2018; Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary *et al.*, 2024). Examples of poor advice include advising victims to stop using social media, block the suspect, or change their telephone number. This appears to be a frequent occurrence, with 80% of stalking advocates surveyed for the stalking super-complaint reporting that it was common practice for police to give unhelpful or dangerous advice to victims (Suzy Lamplugh Trust, 2022).

Moreover, police attitudes towards victims have also been criticised, resulting in some victims feeling that the police were dismissive or even disrespectful towards them (Korkodeilou, 2016; HM Inspectorate of Constabulary and HM Crown Prosecution Service Inspectorate, 2017; Worsley *et al.*, 2017; Taylor-Dunn *et al.*, 2018; Suzy Lamplugh Trust, 2022; Taylor-Dunn and Erol, 2023; HM Inspectorate of Constabulary *et al.*, 2024). This has often been linked to victim blaming from the police, with victims being expected to change their online and offline behaviour to protect themselves, instead of the police taking responsibility for intervening to deal with perpetrators (Korkodeilou, 2016; Millman *et al.*, 2017; Taylor-Dunn *et al.*, 2018; HM Inspectorate of Constabulary *et al.*, 2024).

A specific issue that has significant implications for SPOs concerns police responses to breaches of protective measures. Both the super-complaint and the report found that police did not always respond to breaches promptly or appropriately (Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary *et al.*, 2024). This problem is typical of police responses to violence against women and girls. A 2021 inspection of policing found that they failed to respond to non-molestation and restraining order breaches in under 24 hours in over half of the cases assessed (HMICFRS, 2021).

Frequently, police did not treat breaches as standalone offences of stalking in their own right, meaning that many perpetrators were not dealt with appropriately, such as by arrest. Even more concerning, police also failed to recognise breaches as signs of escalation in stalking behaviour. Yet they have been shown by research to be a serious ramification in the risk of serious harm and homicide in stalking cases (Monckton Smith *et al.*, 2017; Bendlin and Sheridan, 2019; Todd *et al.*, 2021). To explore whether these issues were also occurring in relation to the implementation of SPOs, I collected statistics on the number of breaches and practitioners' views on them. These findings are presented in **Chapters 4 and 5**.

Many of the problems relating to the policing of stalking have been linked to the legislative framework on stalking. The lack of a precise legal definition for stalking is controversial, with many campaigners and academics arguing that stalking should be more clearly defined to prevent conflation with harassment (Petch, 2002; MacEwan, 2012; Suzy Lamplugh Trust, 2022). This criticism has also been raised in official reports on the policing of stalking: consequently, the absence of a legal definition of stalking is universally recognised as a significant contributory factor to the misidentification of stalking (HM Inspectorate of Constabulary and HM Crown Prosecution Service Inspectorate, 2017; Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary *et al.*, 2024). This has proved to be a significant factor regarding the lack of knowledge and understanding of SPOs, findings which are expanded on in **Chapter 5**.

### **Stalking Protection Orders**

SPOs were introduced under the Stalking Protection Act 2019, in response to evidence showing that a penal approach to stalking was failing. SPOs are civil orders that can impose conditions on respondents designed to prevent them from continuing their behaviour and thus

to protect victims. Penalties for breaching SPOs are criminal, including an unlimited fine and/or up to five years' imprisonment. SPOs were proposed as a tool for closing the gap in relation to the protective orders available for stalking, allowing for early police intervention in stalking cases where the evidential threshold for prosecution has not (yet) been met (Home Office, 2024c). It was intended that SPOs would act as an early intervention measure by allowing police to intervene and address stalking behaviours before they become entrenched or escalate.

To facilitate early intervention, police can apply for an SPO at a magistrates' court at any point in a stalking investigation if they satisfy the criteria under s.1(1) of the Stalking Protection Act 2019. Alternatively, the courts apply the test under s.2(1) of the Stalking Protection Act 2019 when deciding whether to grant an SPO application. The criteria for both tests are that the perpetrator has: 'carried out acts associated with stalking', 'poses a risk associated with stalking to another person' and that the order is 'necessary to protect another person from such a risk'.

Police have significant discretion in relation to the content and scope of SPOs and can impose both prohibitions and positive requirements. There is no restriction on the nature of the conditions that police can request for SPO applications. For example, 'prohibitions' can prevent respondents from taking specific actions, such as contacting the victim through any means (like social media or telephone) or entering specified areas where the victim resides or visits. Conversely, 'positive requirements' compel respondents to take a specific action. They may include ordering respondents to attend perpetrator intervention and/or substance abuse programmes or providing police with access to their social media accounts. Police must be able to demonstrate to the court that the SPOs they propose are clear and proportionate to the case. The courts then must make the final decision about whether the conditions are appropriate.

‘Interim’ SPOs can also be granted by the courts for short-term protection in high-risk cases or for the time between court hearings for full SPOs if the courts deem it ‘appropriate to do so’ (Stalking Protection Act 2019). Interim SPOs are similar to full SPOs in that they also specify conditions and carry the same consequences for breaches. However, interim SPOs are only active for a specified fixed period and expire when the outcome of the full SPO application has been determined.

While the introduction of SPOs was widely welcomed by campaigners and practitioners, reports indicate that the implementation of SPOs has faced significant issues. For example, in one of the earliest studies reporting on SPOs, the Suzy Lamplugh Trust (2021c) found that SPOs were not used in most stalking cases. Among various issues, the report identified severe delays in court hearings and police failing to respond promptly to SPO breaches. The report also found that police often refused to make SPO applications due to their perception that the relatively high evidential threshold (beyond reasonable doubt, which is the same for criminal convictions) was not being met (Suzy Lamplugh Trust, 2021c). Before the updated Home Office guidance advised that the courts are ‘likely’ to apply the lower civil standard of proof (balance of probabilities) to all SPO applications in May 2024, guidance suggested that the courts would likely apply the criminal standard of proof for a full SPO, while applying the civil standard of proof to interim SPOs (Home Office, 2021). Evidence from the present study and other research (Thomason, 2022; Suzy Lamplugh Trust, 2023; HM Inspectorate of Constabulary et al., 2024) strongly suggests that the courts largely adopted these evidentiary standards, creating difficulties for police in meeting the criminal standard of proof for full SPOs.

Despite these issues, a review by the Home Office and HM Courts and Tribunals Service (2023) claimed that SPOs were generally effective, with a ‘promising number of orders’ granted between January 2020 and January 2021. Survey findings and feedback from police,

legal advisors, magistrates and the National Stalking Consortium contradicted the Suzy Lamplugh Trust's findings, reporting that most participants believed that the SPO application process 'worked well'. The review further reported that the criminal standard of proof did not prevent SPOs from being granted, although it acknowledged that the application process could sometimes be very slow (Home Office and HM Courts and Tribunals Service, 2023b). As I argue in more detail in the **Literature Review**, it now seems fair to say that the review presented a more positive interpretation of the implementation of SPOs than the findings reflected.

Since the largely positive government-led reviews were published, there have been further indications that the introduction of SPOs has had a limited impact on the policing of stalking. Unpublished research conducted within Cheshire Police strongly indicated that there were substantial issues relating to the implementation of SPOs, thus presenting a more complex picture (Thomason, 2022). The study found that SPOs were rarely used, and the SPO application process was slow and bureaucratic. The super-complaint on stalking confirmed this view, arguing that many of the systemic issues identified in the *Living in Fear* report on the criminal justice responses to harassment and stalking in 2017 persisted. Moreover, the super-complaint reported that SPOs were frequently not being applied for when requested by the victim or their advocate, and there was a lack of prompt or efficient responses to breaches of SPOs (Suzy Lamplugh Trust, 2022).

These issues were confirmed in the subsequent report, which found that the use of SPOs was 'worryingly low' and that the application process was slow and complicated (HM Inspectorate of Constabulary *et al.*, 2024). It also highlighted additional problems, including police favouring lesser protective measures such as non-molestation orders (NMOs) and bail conditions relating to SPOs and the inconsistent implementation of SPOs between police forces.

Despite these issues and the pressing need for an efficient stalking intervention tool, there is a dearth of systematic research on SPOs. Most findings appear in official government reports and reports from non-profit organisations like the Suzy Lamplugh Trust. Data on SPOs also remains scant. The only publicly available source of official data on SPOs has not been updated since January 2023 (Home Office and HM Courts and Tribunals Service, 2023b; HM Inspectorate of Constabulary *et al.*, 2024). Moreover, while the super-complaint and resulting report provided essential information on SPOs, both were primarily focused on the police response to stalking in general. This study takes some important steps towards increasing our understanding of how SPOs are used by the police *and* the courts, *how* SPOs contribute to the policing of stalking and what current challenges exist in implementing them. Accounting for the popularity of civil preventive hybrid orders as a strategy for prevention across the political spectrum, the findings also have significant implications for other current and future orders, especially Domestic Abuse Protection Orders (DAPOs), which carry similar conditions and penalties.

Based on these research gaps, the next section outlines the research questions that guide the study.

### **Research aims and objectives**

The study aims to address the limited empirical literature on SPOs by investigating the use of SPOs by the criminal justice system and the benefits of and challenges involved in implementing them. Specifically, the study examines precisely how SPOs contribute to the policing of stalking and considers the extent to which they are proving a valuable tool for protecting victims or stopping stalking from escalating. The study also seeks to understand preventive justice and the trend towards the increasing use of civil preventive hybrid orders

through the implementation of SPOs. The study addresses the following three research questions:

- How are Stalking Protection Orders being implemented across the criminal justice system?
- How does the introduction of SPOs contribute to the police's ability to tackle stalking, and what are the challenges to their implementation?
- What can we learn from the implementation of SPOs about the evolution of the preventive turn in criminal law/policing?

To address these questions, the study adopted a mixed methodology. First, I used FOI requests to gather descriptive statistics on SPO applications, court grants (or issues) and breaches from all applicable police forces in England and Wales, the HMCTS, and the CPS. I then added secondary data from the Home Office, HMCTS, CPS, and ONS to the analysis to enable comparisons with official statistics and calculate the rates of SPOs based on police force population and stalking incidents. The descriptive statistics are used to answer the first two research questions. My second research method involved conducting interviews with 17 practitioners from the police, legal services, stalking and/or domestic abuse advocacy and victim support services. The findings from these interviews address all the research questions.

Before exploring these findings, the following literature review (**Chapter 2**) examines the contextual background of the study, appraising legislation on stalking and the consultation on and implementation of SPOs. The chapter discusses the issues introduced above in greater depth, explaining how they formed the rationale for this study's research questions. It also introduces and discusses the theoretical literature on preventive justice and civil preventive hybrid orders, explaining how SPOs fit into the preventive turn in criminal law. Through analysis of empirical and theoretical literature, I argue that SPOs appear to share various problematic legal elements with other civil hybrid preventive orders, such as

disproportionality. This analysis forms the foundation for the third and final research question.

**Chapter 3** outlines the research methodology of the study, detailing the research aims, strategy, philosophy, design and process. It explains and justifies the use of a mixed-methods approach, highlighting both its benefits and limitations. Drawing on other studies, the chapter describes the rationale for using FOI requests and semi-structured interviews. It argues that the combination of quantitative and qualitative data is most suitable for identifying certain trends in the data, as well as answering how and why they appear. This is followed by a reflection on the ethical considerations associated with both research methods, identifying potential issues relating to confidentiality. The chapter concludes by explaining how these ethical risks were mitigated through the implementation of appropriate safeguards such as informed consent and secure data storage.

**Chapter 4** addresses the first two research questions. To do so, the chapter presents findings from FOI requests submitted to police forces, HMCTS and the CPS and secondary statistics from the Home Office, detailing descriptive statistics on SPO applications, court grants, and breaches. Insights from the practitioner interviews are also included to contextualise the SPO application process and use of SPOs by the police. The chapter argues that the use of SPOs and their contribution to the policing of stalking are significantly falling short of expectations. The findings show that police, and to an extent, the courts, are not using SPOs proportionately to the incidence of stalking, both locally and nationally. The chapter also reveals that pre-existing protective measures, such as restraining and NMOs, remain the main form of intervention for police and the courts, even though SPOs were partly introduced to fill gaps left by these measures.

**Chapter 5** explores the potential reasons for the low use of SPOs, thus addressing the second research question. To examine the benefits and challenges associated with SPOs, the chapter presents findings from interviews with practitioners working in the police, advocacy, victim support, and legal sectors. The findings suggest that SPOs can be potent and effective tools for tackling stalking if police, legal departments, and courts are persistent in applying for SPOs and enforcing them appropriately. For practitioners, the most compelling advantages of SPOs are their potential to provide strong protection to stalking victims through the creative use of conditions and the close management of suspects. However, practitioners indicate that several problematic elements of SPOs limit their potential in policing stalking. The chapter explores key explanations for low SPO use, including the high standard of proof accepted for an order, the time-consuming application process, the lack of knowledge and awareness of SPOs within policing and the courts, insufficient training for all criminal justice practitioners and clashes with stalking investigations.

**Chapter 6** focuses on the third and final research question. The chapter presents the findings from the interviews that position SPOs within preventive justice theory, discussing the implications for current and upcoming preventive orders. The findings show that there is considerable tension between the tailoring of specific conditions in SPOs and the traditional model of criminal law. Despite being widely supportive of SPOs and the tailoring of conditions, practitioners feel that some conditions can be unfair or disproportionate to respondents, especially highly coercive and intrusive conditions, such as requiring respondents to disclose all their close relationships to the police. The findings also suggest that some police and legal practitioners have experienced uncertainty and discomfort in exercising SPOs without violating respondents' human rights, and often looked to the courts for guidance. The chapter argues that SPOs present a serious concern for procedural fairness

and due process, with the findings strongly indicating that SPOs have a greater scope to interfere with respondents' rights than pre-existing measures for stalking.

The concluding chapter (**Chapter 7**) summarises the overall findings, highlighting three key findings. The first finding shows that SPOs function as beneficial tools for policing stalking only *if* they are implemented appropriately. Next, it is argued that the barriers to using SPOs are indicative of systemic issues within the criminal justice system and poor policymaking. Lastly, it concludes that while SPOs circumvent traditional criminal law through their use of highly coercive measures and lack of traditional safeguards for respondents' rights, they remain an important and timely criminal justice tool to tackle stalking. It explores various recommendations for future research and practice, emphasising the need for more research on the impact of SPOs for respondents and victims and significant systemic change in how the government introduces and assesses hybrid orders.

## **Chapter 2: Literature Review**

### **Introduction**

Constructing the rationale for the study, this chapter critically reviews the literature on stalking, criminal justice responses and the emergence of hybrid preventive measures. The first section on the policing of stalking covers the development of stalking laws in England and Wales, exploring the reasoning for introducing SPOs and investigating potential issues relating to how the orders were created. In the following section, the chapter introduces and analyses theoretical literature on the preventive turn in criminal law and how SPOs fit within this framework. It also discusses how legal criticisms of similar civil preventive hybrid orders may have ramifications for the development and use of SPOs.

Criticisms of SPOs show that there are various barriers to implementing SPOs more widely across England and Wales, with some police practitioners finding SPO applications complex and slow. These findings form the basis of the first two research questions, addressing how SPOs are being implemented within the criminal justice system and how SPOs contribute to the police's ability to tackle stalking and the challenges to their implementation. Finally, the theoretical literature on hybrid orders indicates that SPOs share many elements considered to be contradictory or detrimental to traditional criminal law, such as the lowered standard of proof for hybrid order applications. This influences the study's third and final research question, which examines what can be learnt from the implementation of SPOs about the evolution of the preventive turn in criminal law and policing.

## **Policy developments in the policing of stalking in England and Wales**

### **Protection from Harassment Act 1997**

There are several Acts in England and Wales that prohibit stalking behaviours. The principal Act – the Protection from Harassment Act 1997 – was introduced to tackle rising concerns about stalking, making it a criminal offence. It states that:

‘(1)A person must not pursue a course of conduct—

(a)which amounts to harassment of another, and

(b)which he knows or ought to know amounts to harassment of the other.’

Despite harassment not being explicitly defined in the Protection from Harassment Act 1997, it contains sections prohibiting specific courses of conduct that can amount to harassment, including in s.2, ‘alarming the person or causing the person distress’, typically involving conduct on at least two occasions. A second higher-level offence under s.4, ‘putting people in fear of violence’, means that the Protection from Harassment Act 1997 can be utilised to prosecute a broader variety of behaviours beyond stalking, such as racial harassment and anti-social behaviour by neighbours. Furthermore, under s.5, the Protection from Harassment Act 1997 grants the criminal courts the power to issue restraining orders after conviction of the previous two offences, negating the need for victims to appear at a separate civil proceeding to obtain them. However, the accepted standard of proof is higher.

Initially, reports on the Act were promising, with 1,180 people taken to court and 1,013 prosecuted under the Act in the first six months of 1998 compared to a predicted 200 annual cases (Nadkarni and Grubin, 2000). A Home Office research study on the use and effectiveness of the Act also found that it was being used more than had been initially anticipated (Harris, 2000). Three years after its introduction, a total of 693 cautions and 2,221 convictions were recorded for the s.2 offence, whereas 173 cautions and 522 convictions were recorded under s.4.

However, the effectiveness of the Act was questioned, and criticisms of many issues relating to its use and provisions were raised. For instance, Petch (2002) pointed out that the figures presented in the Home Office study were minimal compared to the number of victims identified by the British Crime Survey<sup>8</sup>, with 12% of 16 to 59-year-olds surveyed having been stalked during their lifetime (Home Office, 2000). Consequently, based on these results, it was estimated that proceedings were brought for only 0.6% of victims under s.2 and 0.3% for s.4. Moreover, case proceedings for stalking had a high level of failure compared to other offences (40% compared to 14%), and this was coupled with a low level of satisfaction with the police and the criminal justice system and a low level of reporting (Harris, 2000). These figures indicated a lack of rigour by police, prosecutors and sentencers in using the Act in cases where it should have been applied, as well as a lack of support for victims. Petch (2002) argued that the police, CPS, magistrates, and judges were not using the Act consistently or sufficiently, undermining its overall effectiveness and indicating that the police and courts did not regard stalking as a serious offence.

Victims of stalking and stalking charities also complained that, as the Act did not classify stalking as an offence, it was not sufficiently equipped for tackling stalking (Sheridan and Davies, 2001; Henley *et al.*, 2020). A consultation reviewing the Act found that the current legislation was largely seen as inadequate for tackling the perpetration of stalking and protecting victims, with 51% of respondents arguing that stalking needed to be defined in law under a specific offence (Home Office, 2012). This view was contradicted only by criminal justice agencies, as most stated that they thought that the current legislation was adequate and that enforcement was the primary issue. The Association of Chief Police Officers of England, Wales, and Northern Ireland (ACPO)<sup>9</sup> maintained that a narrow definition of stalking could

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<sup>8</sup> Now known as the Crime Survey for England & Wales (CSEW).

<sup>9</sup> The ACPO was dissolved in April 2015 and replaced by the National Police Chiefs' Council (NPCC).

reduce the effectiveness of the original Act. Following this, amendments to the Act under the Protection of Freedoms Act 2012 added the two stalking offences described below:

**‘2A Offence of stalking**

- (1) A person is guilty of an offence if—
- (a) the person pursues a course of conduct in breach of section 1(1), and
  - (b) the course of conduct amounts to stalking.’

**‘4A Stalking involving fear of violence or serious alarm or distress**

- (1) A person (“A”) whose course of conduct—
- (a) amounts to stalking, and
  - (b) either—
    - (i) causes another (“B”) to fear, on at least two occasions, that violence will be used against B, or
    - (ii) causes B serious alarm or distress which has a substantial adverse effect on B's usual day-to-day activities,
- is guilty of an offence if A knows or ought to know that A's course of conduct will cause B so to fear on each of those occasions or (as the case may be) will cause such alarm or distress.’

Despite these amendments, stalking remains undefined, although the Act includes a limited list of stalking behaviours intended to act as guidance. Behaviours associated with a course of conduct amounting to stalking are:

- ‘(a) following a person,
- (b) contacting, or attempting to contact, a person by any means,
- (c) publishing any statement or other material—
  - (i) relating or purporting to relate to a person, or

- (ii)purporting to originate from a person,
- (d)monitoring the use by a person of the internet, email or any other form of electronic communication,
- (e)loitering in any place (whether public or private),
- (f)interfering with any property in the possession of a person,
- (g)watching or spying on a person.’

Like offline stalking, stalking that is perpetrated online can also be prosecuted under the Protection from Harassment Act 1997, as it falls under the broad definition of harassment. However, there was initially no specific classification for what constituted stalking and, consequently, cyberstalking in the Act (Horsman and Conniss, 2015). Following the amendments to the Act through the Protection of Freedoms Act 2012, behaviours that can constitute cyberstalking were specified in s.2A (3) as ‘monitoring the use by a person of the internet, email or any other form of electronic communication’. Nonetheless, there is still no specific definition for stalking or cyberstalking.

This is also the case for the Stalking Protection Act 2019, wherein cyberstalking behaviours are identified as acts of stalking under the Protection from Harassment Act 1997, although cyberstalking is not specifically defined or differentiated. The statutory guidance for the police on SPOs expands on this further, providing examples of stalking behaviour that can be performed offline and online or are otherwise digitally enabled, such as:

- 'Using multiple social media accounts, email addresses or phone numbers to contact the victim
- Monitoring the victim by planting tracking or bugging devices, or by installing or activating a programme or application on the victim’s personal devices
- Hacking the victim’s social media accounts, email, phone or computer’

(Home Office, 2021)

The Protection from Harassment Act 1997 has also been criticised for failing victims of cyberstalking, and Bliss (2019), for example, accused the criminal justice system of failing to competently apply the Act to online abuse. Bliss (2019) also pointed to the lack of a legal definition of cyberstalking, like stalking itself, as a factor in the criminal justice system's failure to adapt to the simultaneous development of technology and cyberstalking. Moreover, MacEwan (2012) argued that the reliance of the Act on deeming whether specific behaviours amount to stalking instead of providing a specific definition poses serious issues for cyberstalking. For instance, stalking behaviours conducted in an online setting, such as monitoring and spying on an individual, may not necessarily translate into a behaviour that would warrant criminalisation in an offline setting. This highlights the general trend regarding the criminal justice system's response to stalking, namely that it is not keeping up with the social and cultural changes driven by communication technology, and therefore neglects technology-based abuse (Messing *et al.*, 2020).

It is thus likely that both the criminal justice system's sluggish progress in keeping pace with rapid technological developments and subsequent abuses (Bliss, 2019; Messing *et al.*, 2020) and a lack of will from criminal justice agencies to 'narrow' down stalking legislation by creating a definition for stalking in general (Home Office, 2012) has contributed to the lack of a specific definition for cyberstalking. Despite the prevalence of cyberstalking during the first few years since the Act came into force (Suzy Lamplugh Trust, 2021c; Bracewell *et al.*, 2022), evidence suggests it is unlikely that the introduction of the Stalking Protection Act 2019 has changed much in this regard. Findings from the Home Office and HM Courts and Tribunals Service (2022) review on SPOs support this view, acknowledging an unwillingness

on behalf of the courts to grant SPOs that include conditions associated with monitoring or proscribing cyber-based activities.<sup>10</sup>

## **Introduction of Stalking Protection Orders**

### ***Consultation***

While acknowledging that prosecutions for stalking under the Protection from Harassment Act 1997 were increasing, the Home Office (2015) recognised the existence of a gap between the initial offence taking place and the point at which a prosecution could be started. This was due to either the standard of proof required for a charge that had not yet been met or waiting for prosecution to commence. As a result, it was argued that this gap could risk the perpetrator developing a deeper fixation with the victim and causing them prolonged harm, possibly over several years, without deterrence in the early stages of their stalking behaviour. Victims of stranger stalking were especially at risk as they were not eligible for measures available to victims of domestic stalking, such as Domestic Violence Protection Orders (DVPOs) or non-molestation orders (NMOs). Hence, as part of a wider strategy to tackle violence against women and girls, the Home Office opened a consultation in December 2015 on introducing a Stalking Protection Order. This measure would be designed to protect all victims of stalking, even if the victim did not want the perpetrator to be charged or if there was more evidence needed to commence a prosecution. It was also reasoned that a breach of the order could, in itself, provide evidence for prosecution and that including the imposition

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<sup>10</sup> The use of SPOs for cyberstalking formed one of the key inquiries of the study. While comprehensive data on cyberstalking did not prove forthcoming, the interviews indicated that most practitioners felt that the majority of stalking cases involved some element of cyberstalking. To tackle this issue, practitioners described including specific conditions in SPOs for online stalking. These findings are reviewed in **Chapter 5**.

of positive requirements (conditions that compel respondents to take a specific action) on perpetrators could address the cause of their behaviour and prevent further offences.

The consultation closed in February 2016, at which time 132 responses had been received, including from charities, police, members of the public, professional bodies and local government (Home Office, 2016). The majority of respondents stated that they did not believe that existing orders or injunctions could be used to address stalking more effectively (41%), even though a significant percentage (29.5%) thought that they could be, or did not know. A higher percentage of respondents agreed that current measures did not provide sufficient protection to stalking victims (69%), although figures for respondents who disagreed or dissented were not given. After evaluating the effectiveness of the current measures for tackling stalking, respondents were asked questions about how they thought the stalking protection order should work and the challenges involved in identifying and prosecuting cases of stalking. Nearly a quarter (24%) of respondents stated that a new or existing order should restrict the perpetrator from contacting the victim, while 20% specifically mentioned the need to limit online activities such as digital surveillance and direct and indirect contact with the victim. When asked about the possibility of positive requirements being included in the order, respondents' suggestions included: mental health assessment and treatment (32%); perpetrator intervention programmes or awareness courses (28%); and counselling (11%).

However, these figures do not suggest that most respondents proposed or agreed with these specific measures, as insufficient statistics were provided for alternative responses, indicating a substantial variance in views and suggestions. Conversely, the only conditions for the order that were approved by a clear majority were that the penalty for a breach of the order should be a criminal offence (80%) and that the order should protect victims of harassment as well as stalking (69%). Nonetheless, there was a notable variance in views on whether a breach of

the order should be punishable as contempt of court, with 42% answering 'yes', while 45% answered 'don't know' and 13% answered 'no'.

Furthermore, while the consultation asked respondents for their opinions about what form a new stalking protection order should take, how it should function and the merits of and flaws in current stalking interventions, respondents were not asked if they felt that a new order for stalking was necessary or whether they wanted one. This is a major shortcoming, as respondents were not allowed to express their views on whether there was a need for a new stalking protection order or the potential pitfalls that could arise from implementing the order and using it in practice. Therefore, while the consultation identified areas for improvement in current stalking interventions, it did not sufficiently evidence the need or want for a new stalking protection order.

Similar criticisms of the consultation and the overall development of SPOs have been made by academics. Kelly (2020) argued that the Home Office set narrow parameters on the debate, restricting the consultation to how behaviour orders can be used to tackle stalking instead of how stalking can be tackled in general. For instance, even though the Home Office (2015) acknowledged the existence of multiple behaviour orders that can be used to tackle stalking, such as DVPOs, NMOs, civil restraining orders and restraining orders on conviction and acquittal, it was concluded that these orders were insufficient in terms of addressing stalking. Among various reasons that were given was the fact that, in the case of civil restraining orders, they did not impose positive requirements and could only be applied for by the victim, not the police. Another argument was that restraining orders were issued far too late for victims, being brought only *after* prosecution or acquittal.

However, as Kelly (2020) correctly pointed out, an argument can be equally made that past behaviour orders fail to stop stalking behaviour. This point was acknowledged by the Home

Office (2015) and a report by Chalk and Graham (2016), which recognised that restraining orders are frequently breached by stalkers. As a result, while the orders available to tackle stalking and their drawbacks are outlined in the consultation, the reasons why stalking has persisted despite their existence and the implications for a new stalking protection order are not explored. Based on this alone, Kelly (2020) argued that an alternative approach should have been considered.

Moreover, Kelly (2020) contended that although the responses to the consultation did not present direct evidence that SPOs would not work, many expressed concerns about the likely efficacy of introducing the order. For instance, respondents, including the Police and Crime Commissioner for Northumbria, the Police and Crime Commissioner for Sussex and Paladin, the National Stalking Advocacy Service<sup>11</sup>, highlighted that stalking often goes unreported for long periods by victims, as victims tend not to report it to police until approximately 100 incidents have occurred. This demonstrates a potential flaw in the order as it is designed to allow the state to intervene in stalking cases sooner, especially in the early stages of stalking, yet, in practice, it is only likely to be used when the behaviour has become obsessive and ingrained. Nonetheless, SPOs would still enable police intervention before the potential prosecution of a stalking offence, offering the victim protections that would not be offered otherwise.

As well as this, Paladin openly questioned the assumption that behaviour orders would stop stalking behaviour, asserting that orders do not protect victims in practice, as restraining orders are continually breached by stalkers and not enforced. This point was also highlighted by Chalk and Graham (2016) in parliament (by the former), and in a report on raising the maximum penalty for stalking. Despite the severity of these concerns, the Home Office

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<sup>11</sup> Established in 2013, Paladin is a trauma-informed charity that supports and advocates for high-risk victims of stalking in England and Wales.

(2016) did not acknowledge these points in detail. Kelly (2020) maintained that the limited scope of the consultation meant that the Home Office either had to concede that the consultation had failed or introduce an order with dubious efficacy and an unclear purpose. Based on these arguments, Kelly (2020) raised valid concerns about the consultation on SPOs, and these criticisms are likely to have significant implications for the practical use of SPOs.

### ***Stalking Protection Act 2019***

Following the consultation, the Stalking Protection Act 2019 was introduced, officially creating SPOs. SPOs are civil orders designed to allow the police to intervene earlier in stalking cases, even if the threshold to commence criminal proceedings for the commission of an offence has not yet been met or will not be met. SPOs do not constitute an alternative to prosecutions for stalking under the Protection from Harassment Act 1997, but can be used to complement them. Consequently, suspects charged with stalking can also be issued with SPOs.

SPOs can also be used for or against children or young people under 18: children aged 10 years and over are eligible to have an SPO issued against them. The use of similar preventive measures against children is not unusual, as they are also subject to orders restricting behaviours ranging from anti-social behaviour to sexual harm and slavery (Rodgers, 2023). However, the use of these measures against under-18s is controversial because critics of similar orders have argued that they contribute to the stealth criminalisation of children (Hendry, 2022). The possible implications of preventive orders being imposed on children and under-18s for SPOs are discussed later in the chapter.

According to s.1 of the Stalking Protection Act 2019, SPO applications are made based on three criteria:

‘(1)A chief officer of police may apply to a magistrates' court for an order (a “stalking protection order”) in respect of a person (the “defendant”) if it appears to the chief officer that—

- (a)the defendant has carried out acts associated with stalking,
- (b)the defendant poses a risk associated with stalking to another person, and
- (c)there is reasonable cause to believe the proposed order is necessary to protect another person from such a risk (whether or not the other person was the victim of the acts mentioned in paragraph (a)).’

Applications for SPOs are made by the police to the magistrates’ court, which applies a similar test under s.2(1) in deciding whether to grant an SPO. However, breaches of and appeals against SPOs are heard in the Crown Court. Cases against children and young people under 18 are held in the youth court.

Temporary or interim SPOs, including prohibitions and positive requirements, can also be applied for by the police. Designed as a protective measure in high-risk cases or in cases where a full SPO has not yet been granted, interim SPOs are only active for a specified amount of time and cease to have effect once a full application is granted. An application for an interim SPO is made alongside a full order, meaning that interim SPOs can be granted in the first court hearing for a full SPO. When they were first introduced, the Home Office (2021) guidance stated that it was ‘likely’ that the courts would accept the civil standard of proof (balance of probabilities) for interim SPOs, whereas full SPOs would require the higher criminal standard of proof (beyond reasonable doubt). However, this changed in May 2024, as the statutory guidance on SPOs was updated to advise the courts to accept the civil standard for both interim and full SPOs (Home Office and Farris, 2024).

Similar to restraining orders and NMOs, conditions can be included in SPOs prohibiting respondents from carrying out specific actions, such as contacting or monitoring victims.

However, unlike these measures, SPOs can also enforce positive requirements, compelling respondents to *take* certain actions. Although it is not exhaustive, the statutory guidance for the police on SPOs (Home Office, 2024c) gives several examples of prohibitions and positive requirements that police can request:

‘The conditions of an order could include prohibiting the respondent 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 (including the Family 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, to within a specified area or as outlined on a map); and/or
- engaging in any form of surveillance of the victim by any means.

The conditions of the order could include positive requirements to:

- 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;
- provide the police with access to social media accounts, mobile phones, computers, tablets and passwords/codes; and/or
- sign on at a police station.’

However, while the police can request these conditions, it is up to the courts to decide whether the conditions are ‘proportionate’ and appropriate to the circumstances of the case.

Although SPOs were widely embraced by stalking practitioners and campaigners, many other practitioners expressed concerns that SPOs could put victims at greater risk (Townsend, 2020). Along with other stalking experts, the chair of Paladin, Rachel Horman, argued that SPOs could be potentially used as an alternative to prosecutions, possibly increasing the risk of homicide. Speaking to *The Guardian* on the day that SPOs were first implemented, she called this a ‘retrograde step’, arguing that ‘The only way to keep a stalking victim safe, in my view, is to ensure that the perpetrator is in custody. Stalking is about obsession and fixation, so nothing less than custody will keep victims safe.’ She accused the Home Office of failing to learn lessons from previous orders, pointing to DVPOs frequently being used as an alternative to pursuing criminal charges, a concern which has also been voiced in other reports (CPS, 2017; Bates and Hester, 2020). She further pointed out that SPOs do not give respondents a criminal record, which she asserted is an important step in keeping victims safe.

However, as will be shown, reports on the use of SPOs indicate that these concerns are so far unfounded.

### ***Misleading interpretations of the use of SPOs***

In 2022, the Home Office and HM Courts and Tribunals Service (2023b) published a review of SPOs. To inform their results, the review used a mixed-methods approach to conduct

analysis. This involved quantitative data from Her Majesty's Courts and Tribunals Service (HMCTS), the Crown Prosecution Service (CPS) and the National Police Chiefs' Council (NPCC) and survey, interview and informal feedback data. Participants included police, legal advisors, magistrates, police and crime commissioners (PCCs), the National Stalking Consortium and a victim of stalking. Overall, the review identified the number of applications, grants and breaches of SPOs during the first year since their introduction, as well as comparing their use between police forces and a sample of practitioners' and victims' views on it.

Although the review provided useful quantitative data, the way in which it interpreted the data did not always correlate with the actual findings. Instead, the conclusions drawn appear overly positive given what the data appear to show. This issue was also prevalent in the conclusions drawn from responses to the police and legal advisor surveys. Despite multiple questions producing wide variations in responses, the Home Office stated that respondents were mostly positive about SPOs. For example, data generated from the HMCTS case management system was able to show, between 20th January 2020 and 19th January 2021, how many interim and full SPO applications were granted in total (436), the grant rate at the magistrates' court out of 363 cases in the same period (78%), and the geographical region of these cases. However, as data from the NPCC excluded applications for SPOs that have not yet been decided, as well as the police forces that made the applications, police forces' applications for SPO reimbursements for April 2020 to March 2021 were used to assess and compare SPO applications between forces, giving a total of 335 SPO applications. This data showed that the Metropolitan Police and Sussex Police made the most applications – 106 and 36, respectively – whereas 28 forces made fewer than five applications each.

Moreover, HMCTS data and police data are not representative of the same period and may not necessarily correspond with each other. As a result, the review states that HMCTS data

are considered to be more accurate due to being based on automated data rather than manual returns like police data. This suggests that the figures yielded by police data may be genuinely lower due to the data covering a longer period of the COVID-19 pandemic than the HMCTS data. Although the significant discrepancies between forces in relation to the use of SPOs have been acknowledged, these figures are presented as showing an encouraging trend in relation to the use of SPOs. However, this position is undermined because multiple SPOs used in individual cases were counted separately. Consequently, these figures are not necessarily reflective of how many SPOs were used in many single stalking cases or of respondents, as a significant proportion of SPOs could have been issued to individual perpetrators instead of representing multiple stalking offenders.

Furthermore, while the figure for SPO breaches was presented as low in the review, evidence suggests that it is, in fact, a significant statistic, especially compared to established SPO grant figures (436 applications and 363 cases). Data from the CPS Case Management System included a non-validated indicative sample of breaches of SPOs in relation to finalised cases from 20th January 2020 to 31st January 2021. The data showed that out of 36 defendants, 26 breached a full or interim SPO, of which 20 were charged with simply breaching their order, while six committed more than one breach of the Stalking Protection Act 2019. However, as this was merely an extract of data on breaches from finalised cases and did not include cases that started but were not finalised during January 2021, it is not fully representative of SPO breaches. HMCTS data proved more comprehensive, showing that 156 hearings were held relating to a breach of an interim or full SPO, accounting for 64 individual cases. While it could be reasoned that these breaches fulfil their purpose of protecting victims in the interim before a potential conviction or during the evidence-gathering stage (Home Office, 2015), the figures imply that individual SPO respondents are repeatedly breaching their orders.

Consequently, SPOs could be ineffective in deterring stalkers before their behaviour becomes entrenched or, accordingly, in protecting victims.

Survey data results taken from 138 police respondents and 92 legal advisors imply that a significant proportion of respondents believed that pre-charge bail was more effective than SPOs (or were unsure). Additionally, a substantial percentage of respondents indicated that SPOs were not being adhered to, possibly suggesting that SPOs are ineffective in many cases. For example, 78% of police respondents and 61% of legal advisors agreed that SPOs effectively reduced the risks of stalking, leading the review to conclude that the responses were mostly positive.

However, other responses were less positive, with only 47% of police respondents believing that SPOs were more effective than pre-charge bail, and 54% expressing the view that respondents adhered to SPOs to some degree overall. This skew was also reflected in the legal advisor responses: 40% of legal advisors believed that officers had completed applications effectively, compared to 40% who thought they had completed them neither effectively nor ineffectively and 20% ineffectively. A similar skew was also observed for satisfaction with SPO training: only 40% were satisfied, compared to 57% who were neither satisfied nor dissatisfied. Similarly, feedback from the Association of Police and Crime Commissioners (APCC) was interpreted as largely positive, concluding that SPOs were working well and that police forces were considering applying SPOs to all stalking cases. However, the actual evidence points to contrary conclusions, such as the low usage of SPOs by most forces, the significant number of breaches, and the small sample that the feedback was based on (four PCCs).

Feedback from the National Stalking Consortium, while also regarded as generally positive, raised various issues with SPOs. The consortium noted that while the introduction of SPOs

represented a positive change for stalking victims, they were only fully effective when used appropriately. Other problems were also highlighted. These included delays caused by the pandemic, SPO requests being declined for not reaching the threshold for stalking behaviour, and police not responding to breaches promptly and recommending that victims apply for an NMO instead.

Furthermore, although examples of good practice were provided, they do not appear to be the norm. For instance, some scenarios were used as examples of good uses of SPOs (such as the application of an interim SPO at the beginning of an investigation to convert it into a full order upon conviction or acquittal), even though they had not yet come to fruition. Moreover, these scenarios were unlikely to occur given that courts rarely pursue an application for a full SPO after a trial, regardless of the outcome. Therefore, the data presented in the review is impaired by its fallacious interpretation, thus distorting the conclusions that can be drawn from it and potentially overlooking important information. This is a serious drawback, as a more accurate interpretation of the data could have arguably led to the Home Office making recommendations and/or changes to SPOs and their use that were more appropriate and applicable to SPOs in practice.

Additionally, there were notable methodological issues associated with the review, especially in the case of the surveys. For instance, coupled with the redacted findings from a stalking victim facilitated by the Suzy Lamplugh Trust due to identifying information, the findings do not provide a comprehensive picture of stalking victims, as they are based on only one victim. The surveys would have also benefited from larger sample sizes, although this problem is especially apparent in relation to the interview with a single stalking victim. In addition to this, there is no evidence to suggest that the delays to SPOs in the police and court processes (particularly SPO hearings) referred to in the survey responses were scrutinised sufficiently. The review only notes that the backlog experienced by the Crown Court because

of the COVID-19 pandemic should not affect SPOs, as they are held in the magistrates' court and that individual cases can be delayed for a 'number of different reasons.'

Despite the review acknowledging that cyberstalking is almost always a factor in stalking cases due to COVID-19 restrictions and lockdowns, this issue was also neglected in the consultation. APCC feedback showed that courts tended not to grant SPOs that included conditions associated with monitoring or proscribing cyber-based activities. Given that cyberstalking was identified as an issue in regard to policing stalking before the review commenced (Maple *et al.*, 2011; Worsley *et al.*, 2017; Messing *et al.*, 2020), and that concerns had been raised over the exact purpose of SPOs in practice (Kelly, 2020), the review could have included survey questions asking the respondents about these issues. Thus, the review not only neglected key issues that survey responses and feedback reported repeatedly occurring in relation to the use of SPOs but also in pre-existing research, which, if it had been more rigorously scrutinised and investigated, may have produced possible solutions or changes needed to improve the efficacy of SPOs.

Lastly, although the review did identify multiple issues and areas for improvement in relation to SPOs, which were adapted into a set of recommendations by the Home Office and NPCC, the quality and practicality of the recommendations are equivocal. Recommendations included proactive measures such as the Home Office, NPCC and HMCTS working together to encourage the use of SPOs by police forces and the magistrates' courts. This also entailed setting conditions on cyber-based activity and publishing further guidance and periodic data on SPOs. However, many of the recommendations were mere 'discussions' with, and 'encouragements' for the police and courts to use SPOs more, as opposed to strictly enforced actions. This may prove detrimental as separate forces and courts can choose whether to apply for or enforce SPOs, possibly leading to inconsistent use between separate bodies in both services. As a result, it can be argued that strictly enforced actions requiring the police

and courts to use SPOs could offer a better alternative, as it would compel all forces and courts to use SPOs, promoting more consistent use. Nonetheless, this in itself may be an issue as enforced action would compel the Police to utilise SPOs without discretion, possibly leading to worse results. If enforced, SPOs could be issued automatically and without good reason, illustrating Kelly's (2020) concerns about SPOs' coercive powers and the lack of legal protection against them (see *The preventive turn in criminal law as a theoretical framework*). Therefore, although the review provides examples of good practice in terms of issuing SPOs as requested in the police survey and highlights ways that police can use SPOs creatively, it is still ultimately up to individual forces and courts' discretion to decide whether to use SPOs.

However, various research gaps that were noticed within the review can be addressed by further research. For instance, the experiences of stalking victims with SPOs could be further explored, especially as the review does not include many accounts from the very audience that SPOs are designed to protect. Regarding the current study, several aspects not covered (or at least not in detail) by the review are investigated, including the average time between police making applications for SPOs and orders being granted by the courts. This data can be used to clarify whether delays are being experienced, notwithstanding the review's claims that the pandemic should not have caused a backlog in the magistrates' courts. Moreover, comparisons are made with stalking incidents recorded by police and SPO applications to examine the use of (or lack of) SPOs in current stalking cases. All these findings are explored in **Chapter 5**, with practitioner insights indicating that the positive interpretation of the review was misguided at best.

Following the review, the number of applications, issues and breaches of SPOs was updated in January 2023, based on figures from February 2021 to December 2021. According to the dataset, 434 SPOs were applied for, 308 interim and 232 full SPOs were issued, and 59 court receipts for alleged breach of an SPO were recorded. Compared to the same period the

previous year, there has been, respectively, a 15%, 38% and 26% increase in these categories concurrently, excluding SPO breaches, which have gone down by 2%. However, based on local criminal justice board data, it is clear that specific forces account for the majority of SPO applications and issues, with Greater London and Kent Police making up the largest numbers by far. Based on these results, the review's conclusion that 'a good total figure' of SPOs had been granted remains misleading, because multiple forces still had fewer than five SPO applications and orders issued a year later. This conclusion becomes even stronger when the stalking super-complaint and the responding report that soon followed the review are analysed.

### ***Issues with the use and implementation of SPOs***

As referenced in the Home Office review, other research projects have been conducted since the review that have indicated significant issues associated with the use of SPOs. One of the earliest studies on SPOs, research overseen by Cheshire Police, focused on the first six months of SPO implementation (Thomason, 2022). Using a mixed-methods approach, including statistical analysis of police data, interviews with five regional Single Points of Contact for Stalking (SPOCs) and a descriptive survey of 89 stalking SPOCs, the study suggested that the intended purpose of SPOs had not been translated into practice. Based on police data, the use of SPOs was found to be generally low, with SPOs being issued in only 0.6% of recorded stalking crimes, directly contradicting the Home Office's interpretation of SPO statistics. Whilst participants were largely positive about the legislation and guidance on SPOs, many expressed concerns about the slow and complex application process. For many participants, the criminal standard of proof needed for SPOs (at the time) complicated the process, meaning that SPOs did not often function as the rapid intervention tool that they had been 'sold' as by the government.

Research by NGOs also identified issues with the use of SPOs. Findings from a Suzy Lamplugh Trust (2021) survey on stalking victims' experiences during the COVID-19 pandemic indicated that SPOs were not used in the majority of stalking cases, with only 9% of victims stating that they had an SPO in place. Moreover, due to delays in police and court processes caused by the pandemic and subsequent lockdowns, SPO hearings were reportedly being significantly set back (Suzy Lamplugh Trust, 2021b). In one case study of a stalking victim supported by the National Stalking Helpline, it took nine months to put in place an interim SPO from the time that their advocate from the Helpline requested it from the police. Police responses were also found to be inappropriate, either declining a victim's request for an SPO due to the stalking evidence threshold not being met, in their view, or not responding to SPO breaches promptly.

These findings went on to form a substantial part of the super-complaint on the police response to stalking submitted in November 2022 by the National Stalking Consortium (Suzy Lamplugh Trust, 2022). The super-complaint evidenced their claims using a range of primary and secondary sources, including the research from Cheshire Police, surveys and case studies with stalking advocates from the National Stalking Service and stalking victims. According to the complaint, SPOs were still often not being put in place by officers, meaning that victims lacked the protections afforded to them by the orders, while evidence could potentially be gathered for prosecution. In many cases, this was attributed to police deciding that the legal threshold for an SPO to be put in place had not been met and declining victims' requests for them. Consequently, the complaint recommended that SPOs be applied as soon as the need for the order is recognised (four weeks maximum). Interim SPOs should be implemented much sooner, within 48 hours of a report by the victim or the arrest of the perpetrator, with the victim's consent.

These issues were further evidenced by the subsequent report addressing the super-complaint (HM Inspectorate of Constabulary *et al.*, 2024). The report used a combination of research methods, including focus groups and interviews with stalking victims, police staff and stalking victim support service providers, police force self-assessment surveys, rapid evidence reviews and case reviews. In a specific section dedicated to SPOs, the report acknowledged the ‘worryingly low use’ of SPOs. Presenting data from all police forces in England and Wales,<sup>12</sup> the grant rate for all forces in the year ending 31 March 2023 was only 26 applications per 10,000 stalking offences for full SPOs and 19.4 per 10,000 offences for interim SPOs.

The findings also suggested that the implementation of SPOs differed hugely between forces. While the use of SPOs was generally low, some forces, such as Surrey Police, issued significantly higher numbers of SPOs than others. Factors linked to this variance were the strategic oversight of SPOs (or lack of), as some forces lacked sufficient monitoring systems for SPO applications, court grants or failed applications. Many forces also associated the lack of knowledge and understanding of SPOs among many investigating officers as major factors accounting for the low use of SPOs. Training was also considered an important factor, with forces often failing to train all relevant officers on SPOs. As a result, investigating officers failed to frequently apply for an SPO due to their poor awareness of SPOs.

The report was also critical of the law and guidance regarding SPOs. Reflecting issues identified in previous reports, the application process for SPOs was described as slow and complex. Moreover, many forces found that the process of applying for a full SPO and a criminal trial was very similar. The report mainly attributed this to the criminal standard of proof accepted for a full SPO, although this was lowered to the civil standard of proof in May

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<sup>12</sup> Excluding the British Transport Police.

2024. The current study also identified this issue, finding that SPO applications often clashed with stalking investigations and prosecutions. The clash between SPOs and traditional criminal processes is explored in **Chapter 5**.

Many forces also highlighted the need for the interim SPO process to be quicker. Although interim SPOs were meant to provide protection in high-risk cases, issues caused by the delays and complex application process meant this was often not possible. This situation was also compounded by the fact that an application for an interim SPO and a full SPO is made simultaneously to the magistrates' court.<sup>13</sup>

However, despite criticism of the implementation and use of SPOs, the majority of practitioners widely acknowledged that SPOs are a beneficial tool for tackling stalking (Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary *et al.*, 2024). In particular, the super-complaint report found that the inclusion of positive requirements and the application of SPOs before conviction were the strongest features of SPOs from the practitioners' perspective.

Other research also suggests that SPOs can be more effective when used appropriately. For instance, the Suzy Lamplugh Trust (2021a) found that SPOs were a particularly effective tool when police officers had been trained to apply for them, resulting in orders being processed faster and the SPO being better adapted to a specific victim's case. In particular, the Suzy Lamplugh Trust (2023) identified examples of best practices as: officers in charge (OICs) actively pushing for SPOs; regularly keeping in contact with the victim and advocate; and making the victim feel believed and supported.

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<sup>13</sup> Other issues relating to SPOs identified outside the scope of this study included difficulties in applying for SPOs for perpetrators living in another police force area and the inability to grant an SPO post-conviction or acquittal. Several practitioners in the current study and in conversation also raised concerns about the need to transfer SPOs to respondents' local force area, expressing frustration that they could not apply for them directly.

Based on this research, SPOs clearly have the potential to be an extremely valuable tool in tackling stalking and protecting victims. However, evidence suggests that they are limited by issues associated with stalking protection legislation and systemic issues within the criminal justice system. In particular, delays in the courts and varying strategic oversights in relation to SPOs by police forces significantly impact how SPOs are used. This formed one of the main research questions investigated by the study, while the benefits of SPOs and the challenges involved in implementing them guided the practitioner interviews.

However, as became increasingly clear throughout the research, there are important legal and ethical concerns that go beyond the practical benefits and difficulties of using SPOs. To review the theoretical and legal arguments surrounding SPOs and the use of civil preventive hybrid orders, I now turn to preventive justice theory and the preventive turn in criminal law.

### **The preventive turn in criminal law as a theoretical framework**

Since the late twentieth century, there has been a steady rise in preventive criminal offences in the UK and the US as legal and political spheres have become increasingly focused on security and public protection (Carvalho, 2017). This rapid growth in preventive measures has since been dubbed the ‘preventive turn’ in criminal law. The concept of a preventive turn in criminal law is loose and ambiguous in scholarly discussion (Melander, 2023). For some scholars, the preventive turn is positioned as a trend that involves criminalising any threat to control uncertainty (Ericson, 2007). However, for many others, the preventive turn refers to the transition from reactive measures to various, often dubious, preventive measures (Melander, 2023).

According to this approach, the increase in preventive measures threatens or diminishes the importance of traditional liberal criminal law (Bozbayindir, 2018; Melander, 2023).

According to Ashworth and Zedner (2008), the liberal model of criminal law describes the censure and sentencing of those who have been justifiably criminalised and duly tried in a fair criminal trial. Under this model of criminal law, defendants should only be liable to conviction and punishment if the charge is held in a criminal court according to the procedural safeguards set out in the European Convention of Human Rights. These various procedural safeguards include the higher criminal standard of proof (beyond reasonable doubt) resting with the prosecution, presumption of innocence and protection from retrospective punishment (penalties for actions that were not illegal at the time of the offence) (Jackson and Summers, 2012; Roberts and Hunter, 2012; Kelly, 2020).

A key marker of the preventive turn is the increased use of civil preventive orders (Ashworth and Zedner, 2014; Carvalho, 2017). Although measures such as preventive orders have long existed in English and Welsh law, from the mid-1990s and particularly the inauguration of the New Labour government in 1997, there has been a rapid proliferation of civil preventive orders (Ashworth and Zedner, 2014). In particular, the use of civil preventive hybrid orders<sup>14</sup> – civil orders that incur penal sanctions for breaching them – has become a popular and persistent policy trend, with 33 hybrid orders codified in criminal law in 2019 (Kelly, 2019a). Hybrid orders differ from typical civil orders in that they involve a ‘two-step’ approach – issued under civil proceedings but criminalised upon breach (Simester and Hirsch, 2006). Hybrid orders are used to prohibit a vast range of behaviours, including Anti-Social Behaviour Orders (Ashworth and Zedner, 2010), Football Banning Orders (James and

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<sup>14</sup> Terms used interchangeably to refer to civil preventive hybrid orders include ‘civil preventive orders’ (Ashworth and Zedner, 2014), ‘preventive hybrids’ (Hendry, 2022), ‘hybrid behaviour orders’ (Kelly, 2020) and ‘Behavioural Control Orders’ (JUSTICE, 2023). For the purposes of this study, SPOs and similar civil preventive orders are referred to as civil preventive *hybrid orders*. Measures which are not strictly classified as orders or include other components, such as notices, are generally referred to under the umbrella term *hybrid measures*.

Pearson, 2018), Knife Crime Prevention Orders (Hendry, 2022) and Labour Market Enforcement Undertakings and Orders (Collins, 2020).

As the name suggests, hybrid orders are aimed at preventing harm and/or the risk of harm (Ashworth and Zedner, 2014; Collins, 2020). Typically, hybrid orders prohibit an individual from performing a series of specified acts under the threat of conviction and a sentence of up to five years' imprisonment if the terms of the order are not followed. Based on this definition, SPOs can be classified as civil preventive hybrid orders as they are issued in the magistrates' court and carry a criminal penalty if breached.

In their critique of ASBOs, Ashworth and Zedner (2014) theorised that the rationale for this increase in hybrid orders was that they could tackle issues not dealt with appropriately by traditional criminal law and process. This is especially prudent where there is a course of conduct or series of omissions that either separately do not qualify as a criminal offence or would have to be prosecuted individually if deemed to be crimes. This would mean that the court would be unable to identify the recurrent and persistent nature of the behaviour. This criticism has often been levelled at the criminalisation of stalking under the Protection from Harassment Act 1997 (Home Office, 2012; Henley *et al.*, 2020), forming one of the main justifications given by the government for introducing SPOs (Home Office, 2015; Home Office, 2016).

There is also a key procedural advantage to using hybrid orders. Following an appeal against an ASBO in the Crown Court, the House of Lords determined that, as the two-step structure of ASBOs was separate, heightened criminal fair trial safeguards were not necessary in proceedings for their imposition.<sup>15</sup> However, recognising the severity of ASBOs, they conceded that the criminal standard of proof should be applied in proceedings for an ASBO.

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<sup>15</sup> R. (McCann) v Crown Court at Manchester [2003] 1 AC 787.

Based on this judgment, hybrid orders such as SPOs are not deemed penalties and do not require criminal trial safeguards when they are imposed. This structure is particularly advantageous to the government as hybrid orders are much more flexible than traditional criminal law and allow them to issue orders on lower evidentiary standards (Young, 2017; Kelly, 2020; Hendry, 2022). The courts and government hence play a mutually reinforcing role in the imposition of hybrid orders, with the government continuing to develop hybrid orders and courts continuing to deem hybrid orders non-penalties (Kelly, 2020).

However, while the hybrid orders may offer procedural advantages over criminal law, many legal commentators argue that they can come at a substantial detriment to the human rights and procedural safeguards of respondents (Crawford, 2009; Ashworth and Zedner, 2014; Young, 2017; Hendry and King, 2017; Kelly, 2020; JUSTICE, 2023). Ashworth and Zedner (2014) are among the biggest critics of hybrid orders: they have consistently expressed concerns over the significantly coercive nature of civil preventive orders and the potential to intrude upon individual liberties.

One of the major objections they raised was the unfair procedural consequences of the two-step structure of hybrid orders. Ashworth and Zedner (2010) argued that the respondents of civil preventive orders are subject to measures equally or more coercive and stigmatising than criminal offences, but without the procedural protections afforded to them under criminal law. They went as far as to call this ‘under-criminalisation’, arguing that, as opposed to overt criminalisation, respondents of hybrid orders are criminalised via purportedly ‘civil’ orders. As a result, they maintained that where a specific course of conduct appears to merit criminalisation, policymakers should consider whether a new criminal offence should be introduced so that the appropriate procedural safeguards are in place. Conversely, they recommended that where a course of conduct does not fit these criteria and is instead

appropriate for a civil preventive order, the coercive elements should be reduced so that coercion is used only as a last resort.

The controversy surrounding the two-step legal structure has not abated, as SPOs have been subject to similar criticisms. Continuing his analysis of SPOs, Kelly (2020) questioned to what extent hybrid orders are preventive, noting that despite the severity of the coercive measures they impose, the courts continue to deem them non-penalties. As a result, the protections and human rights safeguards afforded to respondents of penalties are non-existent for recipients of these orders. Kelly (2020) argued that, as a hybrid order, SPOs are likely to cause similar issues in practice, especially if respondents are subject to severe coercive conditions without sufficient protection. This issue has become even more pressing following the lowering of the standard of proof for full SPOs from the criminal standard to the civil standard. However, while there have been some official reports on SPOs, the impact of the two-step legal structure on SPO respondents has not yet been empirically explored.

Another set of objections raised to hybrid orders concerns issues relating to proportionality (Ashworth and Zedner, 2014; Kelly, 2020; Hendry, 2022; Heap, Black and Rodgers, 2022; Rodgers, 2023). Under current legislation, it is up to the courts' discretion as to what prohibitions and positive requirements are included in hybrid orders. As a result, the courts are delegated a significant amount of power in determining what conditions should be imposed for individual respondents, effectively creating a 'personal criminal law' for each individual (Simester and Hirsch, 2006; Ashworth and Zedner, 2014). Moreover, the conditions themselves can be very strict, with many orders, including SPOs, carrying a maximum of five years' imprisonment. Unlike traditional criminal processes, many hybrid orders can stand indefinitely, which means respondents are potentially subject to an order for many years or even decades. Using Duff's (2010) view on subversions of criminal law to support their argument, Ashworth and Zedner (2014) asserted that highly restrictive and

coercive prohibitions are only justifiable as proportionate penalties imposed by a criminal court for 'clear public wrongs' (p.86). Seen from this perspective, conditions typically included in SPOs, such as entering defined areas where the victim resides or visits, should be treated as a criminal offence, with all procedural safeguards available when the conditions are being decided.

Although no official or academic empirical research on the proportionality of SPOs has been published yet, there are indicators to suggest that this may be a significant issue. Echoing Ashworth and Zedner's (2014) concerns about the use of coercive measures in hybrid orders, Kelly (2020) reasoned that the severity of the coercive conditions imposed by SPOs should have been considered more thoroughly during the consultation stage. He argued that there was a lack of inquiry into how coercive the order should be and in what circumstances. While policymakers generally tend to justify the coercive nature of hybrid behaviour orders through their ostensibly preventive purpose, Kelly (2020) maintained that this does not mean that they necessarily prevent harm or do so adequately.

However, there is empirical evidence to indicate that other hybrid orders and notices have a disproportionate impact on respondents. For instance, Heap, Black, and Rodgers (2022) conducted a study on Community Protection Warnings (CPWs) and Community Protection Notices (CPNs), using Ashworth and Zedner's preventive justice theory as an analytical framework to investigate respondents' experiences. The study found various issues related to proportionality, and an analysis of the original CPW/CPN documents showed that requirements were open-ended, with no definite end date specified. The vast range of prohibitions included in CPNs was also deemed disproportionate, with many CPNs containing general conditions that extended beyond the initial incident. For example, a CPN respondent could be given a generic condition such as to 'not act in any manner or engage in

any activity which causes or is likely to cause annoyance, nuisance, alarm, harassment and/or distress to any person not of your household within [an area]' (p.313). As a result, even if the initial incident was relatively minor, such as walking dogs off-lead, respondents could be issued with a fixed penalty notice for an unconnected incident.

Combined with other issues, they concluded that CPWs and CPNs erode respondents' procedural rights while also extending the coercive power of the state. However, it should be noted that, unlike SPOs, CPNs are not issued by a court; instead, any authorised person, including police, local council staff and registered social landlords, has the power to issue a CPN. Therefore, the issues of proportionality and the circumvention of procedural safeguards with CPNs are heightened in comparison to hybrid measures like SPOs that are issued by a court.

Concerningly, research also indicates that hybrid orders have a disproportionate impact on specific demographic groups. Many hybrid orders have been identified as impacting a wide range of groups, including children (Squires and Stephen, 2005), ethnic minorities (Hendry, 2022), people who are homeless (Heap, Black and Devany, 2022), people with mental health problems (Mills and Ford, 2018), and neurodiverse and disabled people (JUSTICE, 2023). One of the most infamous examples of this is Knife Crime Prevention Orders (KCPOs), which have received significant backlash for disproportionately affecting Black men and boys (Grierson, 2019; Hendry, 2022; JUSTICE, 2023; Martin, 2023).

Situating KCPOs within the preventive turn, Hendry (2022) contended that KCPOs and other hybrid measures are ideologically driven, explicitly targeting 'difficult' populations such as Black children carrying knives. Hendry (2022) argued that hybrid measures such as KCPOs deliberately circumvent traditional procedural safeguards, allowing the state to fast-track the criminalisation of difficult populations deemed risky or undesirable. As a result, hybrid

measures subject respondents to considerable stigma, marginalisation and experimentation, all of which Hendry maintains are characteristic of the hybrid proceduralism common in the preventive turn.

Although the target population of SPOs differs significantly from KCPOs, research strongly suggests that, as a hybrid order, SPOs *could* disproportionately impact respondents. Kelly (2020) has suggested as much, claiming that SPOs could potentially have a severe stigmatising effect on their respondents, amongst other collateral effects. Referencing Hoskins' (2019) account of the secondary consequences of conviction, Kelly (2020) suggested that the effect of imposing behaviour orders such as SPOs could stigmatise respondents, potentially impacting their social relationships, employment and housing. Kelly (2020) also pointed to similar hybrid orders that have similarly been identified as stigmatising, with Horder (2019) maintaining that Sexual Harm Prevention Orders carry an 'obviously great stigma' (p.19). While some research suggests that there is considerable stigma attached to being a stalking offender (Wheatley and Underwood, 2023), this may be an unbalanced comparison, as a significant amount of evidence indicates that sexual offenders are considerably more stigmatised than other offenders by society (Tewksbury, 2012; Furst and Evans, 2015; Sandbukt, 2023).

As has been shown, many legal commentators heavily criticise hybrid measures for being disproportionate, unfair, and potentially stigmatising to respondents. Despite this, others have argued that the benefits of hybrid measures should be given more consideration. Seeking to offer a more balanced view, Nathan (2022) rejected the argument that coercive preventive measures cannot and should not punish or restrict respondents without the procedural safeguards available in traditional criminal processes. While Nathan (2022) recognised that coercive 'preventive' measures are fundamentally punitive, he argued that this does not

undermine their legitimacy. Instead, he maintained that coercive measures should be judged according to ethical burdens *and* benefits, including the harm prevented and the harm caused to respondents regarding their freedom and potential stigmatisation.

In particular, Nathan (2022) argued that in cases where prosecutions often fail or take place too late, hybrid orders could prevent serious harm from occurring if there is ‘convincing intelligence’ (p.101). As discussed in **Chapter 1**, despite the risk of serious harm and homicide (Monckton Smith *et al.*, 2017; Bendlin and Sheridan, 2019; Todd *et al.*, 2021), the prosecution rate for stalking is low, with police and courts often failing to recognise stalking or respond to it appropriately (HM Inspectorate of Constabulary and HM Crown Prosecution Service Inspectorate, 2017; Taylor-Dunn *et al.*, 2018; Taylor-Dunn *et al.*, 2021; Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary *et al.*, 2024). Using Nathan’s argument, any legally problematic aspects of SPOs could be justified as they can be put in place before a prosecution or where sufficient evidence for a prosecution has not yet been gathered.

Other commentators have also highlighted the potential for hybrid orders in protecting victims. In a review of hybrid orders based on Freedom of Information requests, desk research and discussions with stakeholders, JUSTICE (2023), a legal reform charity in the UK, identified several issues affecting respondents *and* victims. Discussing orders centred on violence against women and girls, their findings indicated that orders such as Domestic Violence Protection Orders and SPOs were often not applied for or followed up when breached. Despite its criticisms of hybrid orders, the report also denounced their lack of use for women and girls. Pointing to evidence collected by various other reports (Suzy Lamplugh Trust, 2022; Home Office and HM Courts and Tribunals Service, 2023b; HM Inspectorate of Constabulary *et al.*, 2024), JUSTICE argued that orders like SPOs *could* provide robust relief

for victims if used appropriately. They described the failure to use orders to address gendered crimes as discrimination against women and girls. Some contributors to the report felt that the circumvention of procedural safeguards for these orders was far more justifiable due to the risk of grievous harm and homicide. Nonetheless, JUSTICE concluded that all orders should have procedural safeguards recognised and addressed by Parliament during their introduction to ensure that the rights of respondents are upheld.

To investigate the contrasting legal perspectives on hybrid orders, the study's research questions sought to discover the benefits and drawbacks of SPOs, situating them within the preventive turn. This discussion is continued in **Chapter 6**, wherein justification for and criticism of SPOs based on preventive justice theory are analysed. The chapter concludes that there is considerable tension between balancing the rights of stalking victims and SPO respondents. Despite being largely supportive of SPOs, several practitioners raised concerns that SPOs could be disproportionate and unfair to respondents, especially in their provision of tailored conditions, such as requiring respondents to disclose their relationships to police.

In the following section, I review the literature discussed in this chapter and preview the next chapter.

### **Chapter overview**

This chapter examined the contextual background of the study, appraising legislation on stalking, the consultation and implementation of SPOs and theoretical work on preventive justice, and the preventive turn in criminal and civil preventive hybrid orders. Research strongly suggests that the implementation of SPOs has been difficult during the first five years since they were introduced, with significant discrepancies in the use of SPOs between different police forces. These findings were particularly relevant to one of the study's key

research questions, addressing how SPOs are being implemented within the criminal justice system.

Results from official reports also show that there are significant barriers to using SPOs, affecting how they are used and how often. However, despite these barriers, SPOs are still widely considered an effective tool if used appropriately. To identify and examine the benefits of and barriers to SPOs in more depth, the study's second research question investigates how SPOs contribute to the police's ability to tackle stalking and the challenges to their implementation.

Lastly, the chapter reviewed literature on preventive justice and civil preventive hybrid orders, positioning SPOs within the preventive turn in criminal law. Although research on SPOs is limited, empirical and theoretical literature suggests that they could potentially share many problematic legal elements with other civil hybrid preventive orders. Building on theoretical perspectives on preventive justice, the study's third and final research question examines what can be learnt from the implementation of SPOs about the evolution of the preventive turn in criminal law and policing.

The next chapter discusses the study's methodology, outlining the rationale for using mixed methods and reviewing the ethical considerations for each method.

## **Chapter 3: Methodology**

### **Introduction**

I used a mixed-methods approach to examine how SPOs are being applied by the criminal justice system. This chapter explores how these methods relate to the study's aims and why they were chosen. I conducted the study in two key phases, each of which is discussed in separate sections. The first section outlines how I requested and collated data on SPOs and includes a critical discussion of the use of FOI requests in research and the addition of secondary data to the study. Section 2 considers the interviews with practitioners (including police, solicitors, stalking advocates, and victim support practitioners) and explains how they provide essential contextual information and deeper insights into the quantitative data and original findings. I also discuss the limitations and ethical considerations associated with the study.

### **Research aims and methods**

The research questions addressed by this study are:

- How are Stalking Protection Orders being implemented across the criminal justice system?
- How does the introduction of SPOs contribute to the police's ability to tackle stalking, and what are the challenges to their implementation?
- What can we learn from the implementation of SPOs about the evolution of the preventive turn in criminal law/policing?

I used FOI requests and secondary data from the Home Office, HM Courts and Tribunals Service (HMCTS), Crown Prosecution Service (CPS) and Office for National Statistics to answer the first two questions by producing statistics on SPOs for individual police forces

and overall breaches. As discussed in **Chapter 2**, police forces can apply for interim SPOs (temporary orders in higher-risk cases) when an application for a full order (which, prior to May 2024, could only be granted if the criminal threshold was met) has been made.

Therefore, I also requested individual statistics on interim and full SPOs. The interviews with practitioners involved in the SPO process addressed all the research questions.

### **Research strategy**

To conduct the study, I opted for a mixed-methods approach. This was chosen for multiple pragmatic and philosophical reasons. Firstly, the combination of quantitative and qualitative methods allowed for a more comprehensive and layered understanding of the research topic (Creswell and Plano Clark, 2011; Heap and Waters, 2019; Clark *et al.*, 2021; Denscombe, 2021). Referred to by Clark *et al.* (2021) as ‘completeness’, the use of quantitative and qualitative research methods addresses the gaps of the other method, enabling a more in-depth analysis of the research questions. This was significant for the study because, while the FOI data collection and secondary statistics offered insights into SPO usage in England and Wales, they did not clarify the reasons behind certain data trends or the patterns of SPO use. By combining qualitative data from the practitioner interviews, I was able to explore the research questions in greater depth, providing further context on the use of SPOs across England and Wales. This, in turn, enabled connections to be established between the two samples, with the qualitative interview data offering explanations for trends in SPO use observed in the quantitative sample.

Using mixed methods also helped offset the limitations of each individual method (Creswell and Plano Clark, 2011; Heap and Waters, 2019; Clark *et al.*, 2021; Denscombe, 2021). For instance, by integrating the statistics and interview findings, I could compare the results and

verify specific findings, such as discrepancies in the use of SPOs across different forces. This was especially helpful in addressing gaps caused by the incomplete quantitative sample, with interview data filling in gaps not covered by the quantitative data. Concurrently, the quantitative data supported the national relevance of the findings from practitioner interviews by illustrating how specific themes emerged in the national sample.

Another reason I selected mixed methods was to enable a pragmatic approach to answering the study's research questions. Adopting mixed methods facilitated greater flexibility in the research methodology, enabling specific methods to be used for specific research questions (Heap and Waters, 2019; Clark *et al.*, 2021). This proved to be a significant advantage in the study, as the quantitative and qualitative samples were able to answer questions that the other research method could not.

### **Research philosophy**

The study was underpinned by two philosophical approaches: pragmatist epistemology and multiple realities ontology. The pragmatist paradigm is grounded in the practical benefits of using specific research methods rather than their individual philosophies (Denscombe, 2021; Gillespie *et al.*, 2024). Rather than adhering to a specific ontology, the pragmatist paradigm focuses on the most effective approach to the specific research problem (Denscombe, 2021; Gillespie *et al.*, 2024). For that reason, the pragmatist paradigm is often used as a rationale for mixed methods research, as the selection of individual research methods can be justified by the specific research questions (Onwuegbuzie *et al.*, 2009; Tashakkori and Teddlie, 2010; Heap and Waters, 2019; Denscombe, 2021; Gillespie *et al.*, 2024).

Using this paradigm, the combination of quantitative data from FOI requests, secondary statistics, and qualitative data from practitioner interviews can be justified as the best

approach to address the research problem. As discussed in the previous section, the combination of different research methods and sources offered a significant advantage in adopting a mixed-methods approach and, subsequently, a pragmatist epistemology, enabling me to employ different research methods to answer specific research questions.

Multiple realities ontology also provided an important philosophical foundation for the study. As opposed to positivist approaches that assume a single universal reality, multiple realities acknowledge that the same phenomenon can be perceived differently according to different individuals or perspectives (Heap and Waters, 2019; Denscombe, 2021). This perspective offers an in-depth and nuanced view of the research problem, acknowledging its complexities and potential contradictions (Heap and Waters, 2019; Denscombe, 2021).

By adopting this perspective, I was able to thoroughly analyse the use of SPOs, considering them not only from a criminal justice perspective but also from a constitutional and theoretical one. This proved crucial to the analysis of the findings, allowing me to critique the legal legitimacy of SPOs while acknowledging their utility as a criminal justice tool to address stalking.

### **Research design**

The study adopted a cross-sectional research design. Also known as a cross-sectional survey design, this design involves data collection from a sample of 'cases' (Heap and Waters, 2019; Clark *et al.*, 2021; Denscombe, 2021). A cross-sectional design typically includes several components. First, qualitative or quantitative data is collected on two or more variables at a single point in time (Heap and Waters, 2019; Clark *et al.*, 2021; Denscombe, 2021). Next, the findings are examined for measurable variations, with a focus on patterns of association between the variables (Heap and Waters, 2019; Clark *et al.*, 2021; Denscombe, 2021).

Following this design, I first gathered quantitative data from FOI requests to police forces in England and Wales, the HMCTS and the CPS. This was supplemented by management information on SPO applications and grants/issues from the Home Office and HM Courts and Tribunals Service (2023a), and Home Office data on police-recorded crime (Office for National Statistics, 2024a). I then gathered qualitative data via semi-structured interviews with practitioners involved in the SPO process, combining the data to identify associated themes and variables.

As both research methods yielded important findings for the study's research questions, each data collection phase received equal priority. However, data collection and analysis for both research methods were carried out in two distinct phases using an explanatory sequential design. Explanatory sequential design uses one research approach to clarify earlier findings or to explore a possible issue in the research before implementing the second method (Denscombe, 2021). This is accomplished by first conducting quantitative data collection, followed by qualitative data collection, or vice versa (Denscombe, 2021).

For this study, I chose to conduct the quantitative data collection phase first, followed by the qualitative phase. There were two key reasons for this: first, the quantitative findings could inform the questions for the qualitative interviews, and second, the qualitative results could provide valuable context and explanations for the patterns observed in the quantitative data. This sequence proved very effective, allowing me to tailor the interview questions to specific trends in the quantitative data, particularly when unexpected or unique findings emerged in certain forces or areas. The qualitative data also provided important context for the quantitative findings, which in turn enabled greater integration of the two samples.

## Combining the data

To combine findings from quantitative data collected through FOI requests, secondary sources, and qualitative interviews, I used two key approaches: complementarity and development. First outlined by Greene *et al.* (1989), complementarity and development are individual evaluation designs for mixed-methods research (Heap and Waters, 2019). The rationale behind the complementarity approach is to enhance the significance and accuracy of the findings by capitalising on the strengths of each research method while minimising their weaknesses and biases (Greene *et al.*, 1989; Heap and Waters, 2019). Similarly, development aims to inform or develop the findings of one research method through the other, increasing the validity of specific results by leveraging each method's strengths (Greene *et al.*, 1989; Heap and Waters, 2019). As discussed in the prior sections, these rationales were key factors in shaping the study's overall research strategy, philosophy, and design.

Following Greene *et al.*'s (1989) development design, I sequentially implemented the research methods, beginning with quantitative data from FOI requests and secondary sources. I then analysed the initial findings and used them to inform the questions for the practitioner interviews. After collecting most of the quantitative data, I proceeded to gather the qualitative data. For the analysis and integration of the samples, I used a complementarity design, giving equal weight to both quantitative and qualitative findings (Greene *et al.*, 1989). This approach allowed both samples to contribute to a more comprehensive and nuanced understanding of the research questions.

After identifying common or related themes in the samples, I organised the findings around the research questions, dedicating specific chapters to each question. **Chapter 4** primarily focuses on the quantitative findings, examining how these results address the first two research questions, while qualitative interview data is included to support and clarify particular trends and themes. **Chapter 5** delves into the second research question, providing a

more detailed exploration of the qualitative findings. Finally, **Chapter 6** explores the qualitative findings related to the third and final research question.

I will now outline each phase of the study, describing the specific procedures and limitations associated with each research method.

## **Stage 1 - FOI requests and secondary statistics**

### **Using FOI requests in academic research**

The Freedom of Information Act 2000 creates a ‘general right of access to information’ held by public authorities such as government departments, local authorities, and police forces, enabling members of the public to request information from them. Authorities are allowed to refuse the provision of data or provide only partial data, although there are limited legal exemptions under the Freedom of Information Act 2000 to support this (Brown, 2009).

Despite their implications for academic research in accessing data which would previously have been unavailable or difficult to access, FOI requests remain underutilised as a data collection method in the social sciences (Walby and Luscombe, 2017). Bows (2017) advocates the use of FOI requests in academic and feminist research after having used them to collect and analyse police data on sexual violence against the elderly. Bows (2017) points out that the data provided would have been much harder to access without the support of an organisation and/or research collaboration. Accessing the population would also have been difficult due to their vulnerability and lack of engagement with sexual violence services.

Savage and Hyde (2014) acknowledged that FOI requests allow researchers to tailor their requests to the specific research question being addressed, thus producing primary data. In relation to this study, FOI requests allowed me to request data that was previously unpublished and of interest to the study, such as SPO applications, grants, and breaches, as

well as data on offline and online stalking incidents. Rapidity of data collection is a further benefit: public authorities are legally required to respond within 20 days after a request has been lodged (Freedom of Information Act 2000).

Although FOI data is generally provided free of charge, police can charge applicants if the cost of obtaining the data exceeds £450 (Brown, 2009). This issue arose in the drafting stages of the FOI request for this study. An officer serving with Cheshire Police commented in a review of the draft that a question on the prohibitions and positive requirements contained in each of the SPOs would probably exceed the Freedom of Information Act 2000 time and cost limits. While this constituted a wider issue relating to transparency within the criminal justice system, it also proved to be a limitation for the study, as several questions in the draft FOI request had to be cut in order for future requests to remain within the time and cost limits.

Despite this, using FOI requests for this study provided access to data that would otherwise have been accessible only via a large-scale study (Savage and Hyde, 2014). This was especially important as attempting to access the data without FOI requests would have required information-sharing agreements to be made with all 45 applicable forces as well as the HMCTS and CPS, which would have been impractical. The feasibility and utility of using this method in the current study was demonstrated in a previous project carried out by Cheshire Police (Thomason, 2022). Risks of delays in receiving data (Lee, 2005; Bows, 2017b) and outright refusals were mitigated by piloting FOI requests in two police forces.

Nonetheless, there are reasons to supplement FOI data with other methods. As noted by Savage and Hyde (2014), FOI requests may not provide sufficient data to answer specific research questions. They may reveal *what* actions authorities have taken, but not necessarily *why*. As a result, Savage and Hyde (2014) advocated the use of other data collection methods in conjunction with FOI requests. Other studies that used FOI requests also adopted

supplementary research methods (Bows, 2017b; Thomason, 2022), a consideration that significantly contributed to the current study's mixed-methods approach.

### **FOI Pilot**

Two sets of FOI request questions were drafted for the Police, CPS and HMCTS. Due to concerns about the need for clarity and conciseness in the designing of the FOI requests (Bows, 2017), draft questions were submitted to a stalking specialist at Cheshire Police who has recently undertaken related research, to obtain feedback on phrasing and clarification of terms. The feedback provided was useful and helped shape the final design of the questions:

#### **Draft FOI questions**

Police:

- 1) How many application packs for Stalking Protection Orders were completed by police officers/staff in the (Police Force) during the period 1st January 2020 – 30th April 2022?
  - a. Of these application packs, how many were authorised by superintendents and put before the court?
- 2) Of the Stalking Protection Orders put before the court by the (Police Force) in the period 1st January 2020 – 30th April 2022:
  - a. How many were granted by the court?
  - b. How many days passed between each application being put before the court to the Orders being granted?
  - c. What were the age, sex, and ethnicity of the respondents of Stalking Protection Orders?

- d. What was the nature of the relationship between victims and respondents of Stalking Protection Orders?
  - e. How many of the respondents of Stalking Protection Orders are known serial offenders of stalking (for example, respondents with more than one victim and related reported crime in the last five years)?
  - f. How many were cyber-dependent and/or cyber-enabled?
  - g. How many were flagged for domestic abuse and/or hate crime?
- 3) How many application packs for Interim Stalking Protection Orders were completed by police officers/staff in the (Police Force) during the period 1st January 2020 – 30th April 2022?
- a. Of these application packs, how many were authorised by superintendents and put before the court?
- 4) Of the Interim Stalking Protection Orders put before the court by the (Police Force) in the period 1st January 2020 – 30th April 2022:
- a. How many were granted by the court?
  - b. How many days passed between each application being put before the court to the Orders being granted?
  - c. What were the age, sex, and ethnicity of the respondents of Interim Stalking Protection Orders?
  - d. What was the relationship between victims and respondents of Interim Stalking Protection Orders?
  - e. How many of the respondents of Interim Stalking Protection Orders are known serial offenders of stalking (for example, respondents with more than one victim and related reported crime in the last five years)?
  - f. How many were cyber-dependent and/or cyber-enabled?

- g. How many were flagged as domestic abuse and/or hate crime?
- 5) How many stalking incidents were recorded by the (Police Force) in the period 1st January 2020 – 30th April 2022?
  - a. How many people were recorded as having more than three reports/allegations of stalking against them during this period?
  - b. How many of these incidents were flagged as cyber-dependent and/or cyber-enabled?

As part of the pilot, I sent FOI requests with these questions to Cheshire Constabulary and Essex Police via the website WhatDoTheyKnow in June 2022. WhatDoTheyKnow is a website that allows FOI requests to be made to public bodies in the UK and requests and responses to be provided online. I used this method as it was more practical than submitting FOI requests via email to individual forces and authorities. It allowed all the FOI requests to be stored on an individual account and notifications to be issued when the authority had answered requests or was due a response. I made all the requests successfully on WhatDoTheyKnow.

Both forces responded within the 20-working-day period. However, neither could answer all the questions, stating that to do so would exceed the appropriate costs limit under s.12 of the Freedom of Information Act 2000. Nonetheless, whereas Essex Police refused the request outright, Cheshire Constabulary identified Questions 1, 2a, 3, 4a, 5 and 5b as questions that could be answered within the limit of the cost. After indicating that they could proceed with responding to these questions, Cheshire Constabulary ultimately answered the request in September 2022 after a slight delay and a request to clarify terms used in Questions 1, 2, 3 and 4.

Using the email address provided for the FOI Team at Essex Police, I sought further clarification about why they refused the original request and requested responses to any of the questions that could be answered. After a delay, the FOI Team indicated that Questions 1, 1a, 2, 2a, 4, 4a and 5 could be answered, with every other question requiring information that could not easily be retrieved. I submitted a new request, using the questions identified, to the FOI Team in October 2022. I received a response in December of the same year after a significant delay.

## **National release**

### ***Police***

Following the pilot, I significantly shortened the request and edited the questions to consider data caveats such as SPOs not coming into force until 19th January 2020. I also included a request for monthly counts if this would not be too onerous. Lastly, I included a paragraph encouraging forces to answer as many questions as possible, even if they could not answer all of them. The revised template is shown below:

#### **Police FOI request question template**

- 1) How many application packs for Stalking Protection Orders were completed by police officers/staff in (Police Force) during the period 19th January 2020 – 30th April 2022? (If possible, please indicate the month of application. If this is too onerous, a total is sufficient).
  - a. Of these application packs, how many were authorised by superintendents and put before the court?
- 2) Of the Stalking Protection Orders put before the court by (Police Force) in the period 19th January 2020 – 30th April 2022, how many were granted by the court?

3) How many application packs for Interim Stalking Protection Orders were completed by police officers/staff in (Police Force) during the period 19th January 2020 – 30th April 2022? (If possible, please indicate the month of application. If this is too onerous, a total is sufficient).

a. Of these application packs, how many were authorised by superintendents and put before the court?

4) Of the Interim Stalking Protection Orders put before the court by (Police Force) in the period 19th January 2020 – 30th April 2022, how many were granted by the court?

5) How many stalking incidents were recorded by (Police Force) in the period 19th January 2020 – 30th April 2022? (If possible, please indicate the month of the incident. If this is too onerous, a total is sufficient).

a. If this data is available, please indicate how many of these incidents were flagged as cyber-dependent and/or cyber-enabled.

I conducted the national release of the FOI requests in October 2022 and sent all requests to the forces via WhatDoTheyKnow. I made several changes throughout the process in order to take new information and considerations into account. For example, I extended the sample period to three years instead of two years and four months so that more data could be included in the study. I sent a new set of requests containing the same set of questions asking for SPO data from 1<sup>st</sup> May to 31<sup>st</sup> December – or from 19<sup>th</sup> January 2020 to 31<sup>st</sup> December 2022 for forces that had not replied to the first set of FOI requests - to all the applicable forces in October 2023.

As I had to contact each force in England and Wales separately to gather data, the FOI responses varied significantly in terms of the time taken to reply and the amount and type of data provided. Out of the 45 police forces to which I sent an FOI request for SPO data in

October 2022, 93.3% (42) had responded and supplied some form of data by August 2023, 11 months after the national release of the requests. This total increased to 97.8% (44) forces after the second release of FOI requests, with Sussex and Thames Valley Police providing data for the period from 19<sup>th</sup> January 2020 to 31<sup>st</sup> December 2022.

Many responses were significantly delayed, and in fact, very few forces responded within the legal response time of 20 working days. The timescale within which forces responded varied significantly, although most forces (24) replied within a month or two. However, other forces took significantly longer, with Dyfed Powys Police taking nine months to respond. Many forces attributed delays to ongoing issues caused by the COVID-19 pandemic and consequent heavy workloads. A response from North Yorkshire Police is still outstanding, meaning that the sample is incomplete.

In a very few cases, the FOI request was refused altogether. Regarding the first set of FOI requests, all three police forces – Essex Police (having been sent the draft FOI request), Thames Valley Police, and the Metropolitan Police Service – who outright refused did so under s.12(1), stating that the requests exceeded the appropriate cost limit. However, after sending follow-up emails and amending the FOI questions according to what data was available to the forces, Essex Police and the Metropolitan Police Service were able to provide data. By contrast, Thames Valley Police claimed that no information was held for questions 1-4 and was the only force to refuse to provide data of any kind on SPOs or stalking incidents, which again detracted from the representativeness of the sample. However, the force was able to provide this information a year later in the second FOI request.

Of the forces that did not provide full responses, the Metropolitan Police Service is the most significant, as it represents a large proportion of SPO applications and court grants in the Home Office review of SPOs in 2022. As a result, a large percentage of SPOs are not covered

by the FOI results, meaning that the sample is not completely representative of the whole jurisdiction. Nevertheless, statistics from the HM Courts and Tribunals Service, CPS and the Home Office review of SPOs partially fill these gaps.

While the amount and type of data provided differed between forces, the majority of forces were able to answer all the questions in both sets of requests to some extent (87.8%).

However, only 26.7% of forces (12) were able to answer *all* the main and sub-questions.

Several reasons were given for why various questions had been left unanswered, a frequently cited one being that certain types of data were unavailable. This was more often the case for questions 1, 3 and 5a, which asked about the number of interim and full SPO applications and the number of cyber-dependent stalking incidents, representing datasets that forces did not always have or that they lacked the funds to review within the FOI time limit. Another reason was that forces did not always follow the same procedure for making SPO applications. For example, questions 1a and 3a asked about approvals, but many forces did not require the approval of a superintendent for an SPO application to be put before the court, and so did not have such data. Many forces did not distinguish between application processes for interim and full SPOs. In some cases, applications started as an interim but later progressed to a full court order, meaning that counts for interim and full SPO applications were often undifferentiated.

Overall, the FOI responses received by the police were wildly inconsistent in how they were presented and what information they ultimately shared, although they were generally able to provide satisfactory data on SPO applications, authorisations and court grants. Some forces were able to offer much more data than others: Gwent Police, Hertfordshire Constabulary, Humberside Police, Lancashire Constabulary, Merseyside Police and West Yorkshire Police were exceptional in that they answered all the main and sub-questions contained in the request and provided data on both interim and full SPOs. The data presented by Lancashire

Constabulary and Merseyside Police went even further, displaying the numbers of SPO applications (for Merseyside), authorisations and court grants for every month. In contrast, the responses from the Metropolitan Police Service, Norfolk Constabulary, and Wiltshire Police were especially poor. Notably, Wiltshire Police did not produce *any* data on SPOs in their first response, only statistics on stalking incidents. The reasons provided by these forces were that the information was not easily retrievable or that the data had not been collected. This is perplexing given that these forces were able to produce statistics on SPO applications and court grants in the Home Office and HM Courts and Tribunals Service (2023b) review of SPOs. However, it is feasible that this data had not yet been collected because the review was published and updated several months after I submitted the FOI requests.

Consequently, an immediate recommendation for national policing leads or the Home Office is to establish a nationally consistent method of collecting data on SPOs (such as a database). This would enable the use of SPOs by the police and courts, and information on how they contribute to policing stalking, to be more easily examined and monitored. Difficulties may arise due to the different procedures that forces are employing in applying for SPOs. However, these could be alleviated by collecting data on more standard and identifiable categories such as SPO applications (undifferentiated between interim and full) and court grants, both of which most forces could provide. At the same time, an argument could be made in favour of standardising application procedures for SPOs nationwide to ensure that police utilise SPOs consistently and thus keep the data on SPOs in a uniform and more informative manner. However, standardisation requires equal resourcing, and not all forces have invested in specific Stalking Points of Contact (SPOCs) for SPOs or an in-house legal service.

### ***HMCTS and CPS***

Shortly after I sent the first set of FOI requests, I made the decision to send FOI requests to the CPS and HMCTS to request data on SPO applications, court grants and breaches. This followed an unsuccessful attempt to procure data from the courts and prison system via the Data First programme led by the Ministry of Justice (Ministry of Justice, 2022). I also designed the FOI requests to collect data on the comprehensive number of SPO applications, court grants and SPO breaches in England and Wales. HMCTS data proved to be useful as it provided a total national count for SPO applications and court grants. This statistic could not be collected through police FOI responses alone due to some forces not responding and the differences in the methods of measuring SPO statistics used by different forces, both of which increased the likelihood of inaccuracies.

I sent an FOI request to the CPS and HMCTS on 23rd January 2023. I used two sets of questions, following the same adjusted script from the FOI requests sent to the police:

#### **HMCTS FOI questions**

- 1) How many applications for Stalking Protection Orders were made by the Police to the court during the period 19th January 2020 – 30th April 2022? (If possible, please indicate the month of application and by which force. If this is too onerous, a total is sufficient).
- 2) Of the Stalking Protection Orders put before the court by the Police in the period 19th January 2020 – 30th April 2022, how many were granted by the court?
- 3) How many applications for Interim Stalking Protection Orders were made by the Police to the court during the period 19th January 2020 – 30th April 2022? (If possible, please indicate the month of application and by which force. If this is too onerous, a total is sufficient).

4) Of the Interim Stalking Protection Orders put before the court by the Police in the period 19th January 2020 – 30th April 2022, how many were granted by the court?

**CPS FOI questions**

1) Of the Stalking Protection Orders granted by the court in the period 19th January 2020 – 30th April 2022:

- a. How many have since been breached?
- b. For each Stalking Protection Order breached, how long after it was granted did the breach occur?
- c. How many offences of breaching the conditions of a Stalking Protection Order were recorded?
- d. How many breaches of the notification requirements of a Stalking Protection Order were recorded?

2) Of the Interim Stalking Protection Orders granted by the court in the period 19th January 2020 – 30th April 2022:

- a. How many have since been breached?
- b. For each Interim Stalking Protection Order breached, how long after it was granted did the breach occur?
- c. How many offences of breaching the conditions of an Interim Stalking Protection Order were recorded?
- d. How many breaches of the notification requirements of a Stalking Protection Order were recorded?

HMCTS responded to the FOI request regarding SPO applications and court grants in March 2023, two months after the initial request in January 2023. No reason was given for the delay.

HMCTS answered three out of the four questions in full. Question 3 - which asked about how many interim SPOs had been applied for - could not be answered as there is no separate criminal justice system offence code for an application for an interim SPO. However, HMCTS provided figures for total SPO applications and grants in England and Wales (including interim SPOs for the latter), although these could not be broken down by individual forces due to the cost limit. This did not present much of an issue, as SPO statistics had already been requested from the individual forces.

CPS data provided figures on SPO breaches. This served as an indicator of whether SPOs were deterring or incapacitating stalking offenders and if breaches were being policed. I received a response to the FOI request regarding SPO breaches in February 2023, a month after it had been sent in January 2023. The request was initially refused due to the cost limit and the amount of work involved, but at the same time, the CPS suggested making another request for the number of SPOs or interim SPO breach offences recorded on the CPS Management Information System (MIS) Database, as data was available on this system.

I submitted a new FOI request in April 2023 with the following amended questions:

- 1) How many SPOs were breached in total from 1st January 2020 to 30th April 2022?
- 2) How many interim SPO breach offences were recorded on the CPS Management Information System (MIS) Database from 1st January 2020 to 30th April 2022?
- 3) How many full SPO breach offences were recorded on the CPS Management Information System (MIS) Database from 1st January 2020 to 30th April 2022?

I received a further response to all the questions in May 2023. Although the data provided in the response was not as detailed as it would have been had the original request been fulfilled, it was still useful because it provided a total number of SPO breaches nationwide and under

which offences, thus allowing initial trends in relation to breach and offending behaviour to be identified.

As was the case with the police, I sent new requests using the same sets of questions to the HMCTS and CPS in October 2023 so that data from 1<sup>st</sup> May to 31<sup>st</sup> December 2022 could be collected, thus expanding the sample to three years. I received responses to both requests in the same month and subsequently added them to the sample.

### **Secondary statistics**

I used two kinds of secondary statistics. The first comprised management information on SPO applications and grants/issues from the Home Office and HM Courts and Tribunals Service (2023a) to enable a comparison of official data and FOI data. The sample was a year shorter than for the FOI data, spanning the period from February 2020 to December 2021. Nevertheless, the data still provided a good measure of whether certain forces/courts were using SPOs in some capacity.

The second took the form of statistics from the Office for National Statistics (2024a) – also taken from the Home Office’s data on police recorded crime, year ending December 2022 – to provide important contextual information for the quantitative analysis. For instance, I compared the population of each force per 100,000 people with the rate of SPO applications and grants per force according to FOI data. Police recorded crime also included statistics on stalking and harassment offences. However, I did not use these statistics to calculate a rate of SPO applications and grants, as the figures included harassment crimes, which would not be applicable for SPOs. Instead, I opted to use FOI data on stalking incidents to calculate a rate of SPO applications and grants per 10,000 stalking incidents. This provided some indication

of whether the rate of SPO applications and grants was appropriate and/or in line with the incidence of stalking nationally and in each police force, or influenced by population.

### **Limitations**

Delays were the principal limitation of this study. While the HMCTS, CPS and a minority of police forces were able to respond within the legal 20-day limit, the majority of forces were unable to do so, with some taking up to nine months to respond. I factored this risk into project planning, so the FOI requests formed the first phase of the study, in order to allow sufficient time to collect all the data. As a result, delays did not pose a significant problem for the study.

A second limitation arose from differences in data-gathering practices and sources between the various FOI respondents and secondary statistical sources. For example, monitoring practices used for SPO applications differed between some forces, meaning that data on interim and full SPO applications, and applications approved by superintendents, could be inaccurate or undifferentiated. In contrast, data on interim and full SPOs granted by the courts were more likely to be accurate as they are explicitly differentiated. The quantity of data provided also varied as forces had different assessments of what they could release within the FOI time and cost limit. In some cases, forces may have held more information than that which they provided via the FOI responses. Likewise, despite questions 5 and 5a requesting data on stalking and cyber-dependent stalking ‘incidents’, some forces elected to provide statistics on stalking ‘crimes’. This represents different sets of data, as an incident is defined as a record of contact made to a police force by an individual/member of the public. In contrast, a crime means that the threshold has been met for the police force to deem that a

criminal offence has occurred, as defined by law. Consequently, there are several inconsistencies in the data on stalking incidents between forces.

There are also several other constraints on police recorded data. Principally, while police-recorded data can be used to examine crime at a neighbourhood level, it is dependent on public reporting (Smith, 2006). Given that stalking victims experience an average of 100 incidents before reporting them to police (CPS, 2020), this would almost certainly affect the number of stalking incidents recorded by individual forces. It is also possible that other factors influenced the recording of police data, such as performance management targets (Bows, 2017a). However, as the aim of the study was to examine the *use* of SPOs by the criminal justice system specifically, this did not pose a substantial problem.

HMCTS included several data caveats for the figures on SPO applications, stating that the data was based on a count of the number of applications made using the CJS Offence Code ST19501 on the LIBRA MIS database. As the data was taken from a live management system, it can change over time and is not subject to the same level of checks as official statistics, meaning that there could be some inaccuracies. HMCTS included similar caveats in the data for interim and full SPO grants, although they pointed out that the count (based on LIBRA result codes SPO and SPOI for full and interim SPOs and all CJS Offence Codes) was representative of court grants, rather than cases or defendants. Furthermore, in cases where interim and full SPOs had been granted alongside each other, the orders counted individually. As a result, these figures do not align with the official statistics provided by the Home Office and HM Courts and Tribunals Service (2023a). This is compounded by the fact that they cover a wider time range than the management information currently available on SPOs. Similarly, the CPS cautioned that their data had been extracted by a manual review of CPS prosecution case files and not collated to produce official statistics, meaning that it may be subject to possible errors made during data entry and processing.

Similar data caveats were described in relation to the sources used to obtain secondary statistics. As the Home Office and HM Courts and Tribunals Service (2023a) management information on SPOs was also partially taken from the HMCTS, they outlined the same caveats for the LIBRA MIS database and CJS Offence Codes in the dataset. However, unique caveats included the redaction of data numbered from 1 to 5 for data protection purposes and the use of different methodologies for collecting data on SPO applications and court grants. Unlike the FOI requests to the police, data on SPO applications was taken from Local Criminal Justice Boards (LCJBs), which created further differences between the FOI data and official statistics. Nevertheless, as the overall aim of the study is to capture general trends in relation to how SPOs are being used by the criminal justice system, I argue that the level of potential for errors and differences in the data is acceptable, especially as these are relatively minor. Indeed, having multiple data sources was useful as I was able to identify major discrepancies in SPO applications, court grants and breaches.

## **Stage 2 - Qualitative interviews with stalking practitioners**

### **Using interviews in research**

Most of the studies that utilise FOI requests also adopted a mixed-methods approach, often using qualitative research methods, such as interviews, to supplement and develop their findings (Bows, 2017a; Thomason, 2022; Home Office and HM Courts and Tribunals Service, 2023b). In the case of this study, conducting interviews enabled practitioners' views on and experiences with SPOs to be appraised, thus generating significant insights into how SPOs are applied in the criminal justice system from a ground-level perspective. The results obtained from the FOI requests informed the questions asked at the interviews, and the findings from the interviews, in turn, contextualised the results obtained from the FOI and secondary data.

## Sampling

I recruited professionals from the full range of sectors involved in the SPO process - police, lawyers, and stalking and domestic abuse advocacy and victim support services - through a snowballing approach. Snowball sampling is a non-probability method of sampling often used in qualitative research to reach individuals who are hard to access or identify (TenHouten, 2017). Participants refer others to the researcher, thus enabling the researcher to access people who would otherwise have been inaccessible to them alone (Noy, 2006).

Recruitment was facilitated by presenting and sharing the study with members of the Stalking and Harassment Working Group at Essex and Kent Police, through contacts provided by my PhD supervisor. Members of the group became participants and assisted with snowballing. I also advertised the study on a poster at the National Stalking and Harassment Offences Working Group (NSHOWG) Knowledge Exchange Network conference in 2023. I shared an email explaining the purpose of the study and an information sheet with the National Stalking Consortium. Lastly, I asked participants at the end of their interviews if they knew of anyone else interested in participating and whether they would be willing to either circulate information about the research to their contacts or provide their contact details, thus creating the snowball sample.

The sample included 17 participants, comprising seven police practitioners, five practitioners from the advocacy sector, three victim support practitioners and two legal practitioners.

Although I generally labelled participants by the overall sector in which they worked, various roles were represented in the sample, such as Operating Officers, Police Constables and Detective Sergeants (PC and DS), Independent Stalking Advocacy Caseworkers (ISACs), and Independent Domestic Violence Advisers (IDVAs).

**Table 1** *Anonymised list of participants and their roles*

<b>Practitioner assigned number</b>	<b>Practitioner role</b>	<b>Practitioner organisation</b>
<b>1</b>	Police Constable	East of England Police Force
<b>2</b>	Detective Sergeant – Stalking specialist	North West England Police Force
<b>3</b>	Detective Chief Inspector - Domestic abuse specialist	South East England Police Force
<b>4</b>	Detective Sergeant – Stalking specialist	South East England Police Force
<b>5</b>	Detective Sergeant – Stalking specialist	South East England Police Force
<b>6</b>	Civilian investigator – Stalking specialist	East Midlands Police Force
<b>7</b>	Cyberstalking specialist	Victim support charity
<b>8</b>	Co-CEO	Stalking charity
<b>9</b>	Chief Operating Officer	Stalking advocacy service
<b>10</b>	Independent Stalking Advocate Case Worker (ISAC)	Domestic abuse and stalking advocacy service
<b>11</b>	ISAC	Victim support charity
<b>12</b>	Solicitor	South West England Police Force
<b>13</b>	Helpline Team Leader	Stalking charity

<b>14</b>	Community Services Co-ordinator	Stalking advocacy service
<b>15</b>	Independent Domestic Violence Adviser Service Team Leader	Stalking advocacy service
<b>16</b>	Operational Lawyer	South East England Police Force
<b>17</b>	Detective Chief Inspector – Stalking specialist	North East England Police Force

I recruited most of the participants through snowballing and then contacted referrals from the aforementioned networks or other participants, especially in the case of stalking advocacy and victim support practitioners. In contrast, I contacted a smaller number of participants directly. I gave all the participants information sheets and consent forms<sup>16</sup> before the interview, which explained the purpose of the study and what they should expect if they chose to participate. Both the information sheet and consent form emphasised that participation was voluntary and that participants could choose not to participate in part or all of the project. It was also stressed that participants could withdraw from the study up to the point that any findings were published and that practitioners' names and job titles would be kept strictly confidential, with any identifying information being replaced by pseudonyms and paraphrased quotes from their interviews. As a result, I referred to participants only by pseudonyms and broad job titles.

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<sup>16</sup> Please see the participant information sheet in **Appendix F** and the participant consent form in **Appendix G**.

During the early stages of the interviews, it was suggested that between 15 and 20 participants be included in the study. Although this target was met, I had hoped that a more proportionate number of legal professionals would participate. However, as the study progressed, it became apparent that these practitioners were the most difficult to access, as potential participants were either unavailable or reluctant to participate due to heavy workloads. In comparison, advocates and victim support practitioners were the most responsive to the study invites, often getting in contact personally to express their willingness to participate in the study. Police practitioners were also fairly responsive; most referred their colleagues to the study. Nonetheless, considering that extensive networking and time were required to recruit the total number of police practitioners who took part in the study, this process would have been much more difficult without pre-existing contacts with the police and related networks. This is not surprising as it has been noted that police are often difficult to access for the purposes of academic research (Johnson, 2010), which is also likely to be the case for legal professionals.

Despite the sample lacking a significant percentage of legal professionals, the study is still unique in that it examines the perspectives of police, legal, advocacy and victim support services on SPOs, providing a broader outlook on how SPOs are viewed and used by different practitioners inside the criminal justice system.

### **Interviews with practitioners**

The ultimate aim of the interviews was to collect data from practitioners involved in the SPO process so that the perceptions of SPOs and their use could be gathered from various services inside the criminal justice system. However, although I created an interview schedule at the outset, I quickly realised that the schedule would need to be altered as practitioners would have different knowledge and experiences of SPOs, depending on what sector they were working in. As a result, I created three different schedules containing questions for police,

legal professionals, advocates and victim support practitioners. Given the advocates' and victim support practitioners' varied experience and awareness of SPOs, I adopted a more general schedule in their case, heavily based on the police and legal schedules, but excluding police- and court-specific questions. It included guiding questions such as:

- Tell me about your role and how your work involves SPOs
- Do SPOs come up often? Why or why not?
- What kinds of stalking cases are SPOs applied to? For what reason?
- How does cyberstalking factor into SPO applications?
- What do you think SPOs are trying to achieve?
- Do SPOs fulfil these aims? Why or why not?
- What are the main benefits?
- What could be improved?
- What do you think about the powers under the SPO? Are they enough or could they be extended?
- How do practitioners see SPOs? Are they considered useful?
- In your experience, how do victims of stalking see SPOs?
- How do respondents of SPOs view them?
- Is there sufficient guidance on how to use SPOs?
- Is there training for their use?
- Do practitioners understand what SPOs are and what they can do?
- How about victims of stalking? And members of the public more generally?
- Are other orders or criminal justice interventions (i.e., prosecution) typically sought instead of an SPO? If so, why?
- How do SPOs compare to other preventive orders? Are they used differently?

- Do you think the COVID-19 pandemic and subsequent lockdown had an impact on the implementation of SPOs? Tell me about that.
- If so, is this impact still being felt?

What kinds of research questions would you like to see addressed around SPOs?

Using a semi-structured approach proved very useful. The flexibility inherent in the interview process allowed participants to spend less time on questions that they were less knowledgeable about and elaborate on topics that they had more experience of. I adapted the schedules to fit each sector. For instance, I asked police about their views on why certain trends relating to SPO applications and court grants may be happening in their area.

Starting in May 2023, I interviewed all seventeen participants online via Microsoft Teams. I organised the interviews via Calendly, a website that permits participants to book an interview time from a set of available dates and times set by the researcher. This was a beneficial and convenient tool, as participants often had heavy workloads and hence difficulty finding time to do the interview. Calendly allowed them to select a date and time for their interview. I recorded the interviews, which ranged between 42 minutes and an hour and 40 minutes in duration. The interviews ended in December 2023.

Following the end of the interviews, I uploaded the audio interview recordings to Microsoft Word to transcribe them into individual documents. To ensure the accuracy of the transcriptions, I also listened to the recordings and manually edited them when errors occurred.

## **Interview data analysis**

With regard to the interview transcripts, I used thematic analysis to identify, analyse and report themes within the qualitative data (Braun and Clarke, 2012). I chose thematic analysis as it is a flexible technique which can be applied to and complements various theoretical frameworks and quantitative methods, making it especially effective in mixed-methods research (Trahan and Stewart, 2013). Themes are typically derived using two techniques: inductive thematic analysis (wherein themes are taken directly from the data); and deductive thematic analysis (themes which are predefined and applied to the data) (Boyatzis, 1998). Although inductive and deductive thematic analysis are regularly used separately in multiple disciplines (Nowell *et al.*, 2017), it has been claimed that inductive and deductive analysis can be used together (Fereday and Muir-Cochrane, 2006). Proudfoot (2023) argued the case for using inductive/deductive hybrid thematic analysis in mixed-methods research, pointing out that the hybrid approach allows for the exploration of layered and complex issues with both an open and inductive approach to coding and a deductive application of themes from an existing framework. This approach benefitted the study as deductive themes from previous research on SPOs and civil preventive hybrid orders could be applied to the transcripts while also allowing for new or unique themes to be derived from the data.

The analysis followed Braun and Clarke's (2012) six stages of thematic analysis. First, I read transcripts of the interviews multiple times to familiarise myself with the data. Next, I sourced initial codes from prior research on SPOs and hybrid orders. I generated the data and attached descriptive labels to each highlighted section of text to explain its code. From this, I collated codes into overarching themes, highlighting and labelling all the data applicable to these themes. I conducted all the coding using NVivo, a software application designed to assist with analysing qualitative data by producing labels describing specific codes and themes that can be attached directly to the text. After searching for themes, I checked the

themes to determine whether they were appropriate for the coded extracts and overall dataset, thereby creating a thematic map of the analysis. I then clearly defined and named the themes so that each was specific to what the theme represented in the data. Lastly, I used specific extracts from the interviews to answer and elaborate on the study's research questions to produce a final analysis of the data.

### **Limitations**

One of the main limitations associated with conducting the interviews was the online setting. While this had several advantages – including convenience for myself and the participants and flexibility to fit around participants' schedules – there were also some drawbacks. For instance, due to the interviews being held on Teams, technical difficulties frequently occurred, and participants were often required to turn their cameras off to strengthen the Wi-Fi connection. The issues were relatively minor (glitching and pausing) and did not prevent any of the interviews from taking place. Nevertheless, turning off cameras further limited the interaction between the researcher and the participants, probably changing the interview dynamic to a greater extent than placing the interviews in an online setting instead of face-to-face.

Another limitation was the difficulty in recruiting participants for interviews. While I expected legal and court practitioners to comprise a larger proportion of the sample, participants from these sectors were often busy or unavailable. As a result, participants from the police and advocacy services comprised a larger proportion of the sample, with advocates and victim support practitioners being a late addition to the interview process. Despite this, recruiting these participants proved difficult and required significant networking within policing, advocacy, and victim support spaces.

Although in comparison to some studies, the study sample would be considered small and possibly a limitation, it allowed for an in-depth exploration of how SPOs are used by the criminal justice system and how practitioners from multiple sectors perceive their use. Additionally, I concluded that the interview findings had reached theoretical saturation, meaning that further data collection no longer yielded new insights (Nelson, 2016; Saunders *et al.*, 2018). Using an inductive approach, I determined saturation was achieved when additional participants no longer revealed new themes in the analysis (Saunders *et al.*, 2018). Nevertheless, the study would have benefitted from more legal practitioners, as a very small proportion of these participants were included in the sample when compared to police, advocates and victim support practitioners.

### **Ethical considerations**

#### **FOI and secondary statistics**

As data from FOI requests are held in the form of anonymised archives in the public domain, and the statistics from the Home Office, HMCTS, CPS and Office for National Statistics are secondary sources already published and available to the public, I did not require ethical approval for this phase of the study. Furthermore, data released by FOI requests are subjected to additional scrutiny under the law, according to public interest assessments and exemptions, thus providing a further ethical safeguard (Bows, 2017b). However, it should be noted that information provided by FOI requests is not without ethical risk, as the public authorities to which the requests are sent may fail to clean data of personal information, even though it is their duty under the Freedom of Information Act 2000 (Savage and Hyde, 2014). I therefore incorporated these concerns into the research design, putting a protocol in place, as suggested by Savage and Hyde (2014), to the effect that if a public authority does disclose personal

information in the data, I would notify the authority that their response is non-compliant with the Act and that personal data should be destroyed, with the original being disregarded as a legitimate response by the authority until a compliant version is received. Fortunately, this did not occur, so I did not use the protocol.

### **Interviews with practitioners**

To conduct the interviews, I sought ethical approval from the University of Essex. I submitted an application in November 2022, and it was signed off in December 2022. It was set to expire in October 2023. I applied for a further extension in November 2023, which was approved in December 2023, and ended in March 2024. As well as following the principles set out by the University of Essex, the study also adhered to the statement of ethical practice produced by the British Sociological Association (2017) and the General Data Protection Regulation (GDPR). Therefore, anonymity, confidentiality and data storage were important considerations. To ensure that consent was also obtained, I created participant information sheets and consent forms, both of which I included in the ethical approval application. The forms also outlined participants' right to withdraw at any time before any findings were published.

I took several precautions to ensure confidentiality. First, I anonymised the interview transcripts using pseudonyms to replace all direct identifiers, such as names, and generic descriptors to replace place names. I also used generic descriptors to replace indirect identifiers such as workplace, occupation/role, educational institution, and age. I used the same set of pseudonyms/replacements consistently across the research team and in all research reports and publications.

Secondly, I established protocols to ensure that the interview data was secure. I stored data on password-protected computer files. I will also delete personal data (any data relating to

participants who could be identified or who were directly identifiable from the information in question, or who could be indirectly identified from that information in combination with other information) after 5 years. I will permanently delete the research data (interview transcripts minus any personal data) after 10 years. The starting point for the countdown to deletion is the date on which I completed the interview transcripts. Regarding the research analysis, only the project team - myself and two supervisors - had access to the data files, which I password-protected. I destroyed the recordings upon completing the transcriptions, which I stored on a password-protected server. I will only store anonymised data for any significant length of time.

Lastly, given the job roles and responsibilities of the research participants, there was a risk that details about specific stalking cases and stalking perpetrators/victims could have been shared during the interviews. However, to minimise this legal and confidentiality risk, I asked participants if they were referring to details of an actual case or person to ensure that these were changed or removed from the final transcript, depending on how identifiable the information provided was.

Ensuring participant safety was also a significant concern, especially regarding potential discussions of sensitive details from specific stalking cases. To minimise potential harm or discomfort to participants, I established a protocol: I would stop the interview if the participant became distressed or uncomfortable and allow the participant to skip any questions that caused discomfort. If the participant became too distressed, I would stop the interview and debrief with my PhD supervisors. Fortunately, this was not necessary, so I did not use the protocol.

## **Chapter overview**

This chapter outlined the research methodology used in the study, detailing the research aims, strategy, philosophy, design, and process. It explained and justified the use of a mixed-methods approach, highlighting both its benefits and limitations. The chapter concluded with a reflection on the ethical considerations concerning both research methods, and explained how potential issues can be minimised through the implementation of appropriate safeguards.

The following three chapters present the study's findings, detailing the empirical results and discussing them in relation to existing research. The next chapter (**Chapter 4**) presents findings from Stage 1 of the study, which include descriptive statistics on SPOs from police forces in England and Wales, the HMCTS, and the CPS, along with insights from practitioner interviews.

## **Chapter 4: ‘They are so rare’ – The Use of Stalking Protection Orders by the Criminal Justice System from 2020 to 2022**

### **Introduction**

Since their implementation in January 2020 in England and Wales, there has been a significant dearth of research on SPOs. While some data on SPOs can be sourced from the Home Office or the recent report on the stalking super-complaint, publicly available data on SPOs remains limited (Home Office and HM Courts and Tribunals Service, 2023a; HM Inspectorate of Constabulary *et al.*, 2024). As a result, there is currently little insight into whether the use of SPOs by the police and courts is contributing to tackling stalking overall and, if so, how.

Research also suggests that the use of SPOs varies substantially between forces (Home Office and HM Courts and Tribunals Service, 2023b; HM Inspectorate of Constabulary *et al.*, 2024). While differences in terms of resources and dedicated stalking roles have been acknowledged, it is unclear *how* forces apply for SPOs and how this differs from national guidance.

To address this gap, two of the study’s key questions are to examine: how SPOs are being implemented across the criminal justice system; how their introduction contributes to the police’s ability to tackle stalking and what challenges are involved in their implementation.

To address these questions, I first describe the SPO application process based on a review of official documents and the descriptions from participants involved in the interviews for this study. Their insights shed light on how SPOs are applied in practice, highlighting significant differences between national guidance and reality.

This chapter also presents one of the most accurate and detailed datasets on SPOs currently possible. I use FOI data from courts and respondent police forces, the HM Courts and

Tribunals Service (HMCTS), and the Crown Prosecution Service (CPS) to show the number of SPOs applied for by the police, granted by the courts, and breached between January 2020 and December 2022. I also utilise data from the FOI requests, Home Office and Office for National Statistics to display the population and incidence of stalking in each force and thus estimate the extent to which the use of SPOs by the police and courts contributes to the policing of stalking in each force and overall. Data from interviews with practitioners contextualises the data and explains why specific trends may be apparent.

The chapter argues that SPOs are making a minimal contribution to the policing of stalking and that the use of SPOs is falling drastically short of expectations. It reveals that the police – and, to a lesser extent, the courts - are not using SPOs in proportion to the rate of stalking in each force or nationally. The chapter also shows that preceding orders used for stalking, such as restraining and non-molestation orders, remain the main form of intervention for police and the courts, even though SPOs were partly introduced to fill gaps left by such orders. However, the use of SPOs between forces varies dramatically, with some forces, including Sussex, Kent, Surrey and British Transport Police, using considerably more SPOs than other forces. I explore the potential reasons for this here and more fully in **Chapter 5**, which expands on the findings from the qualitative interviews. The findings also show that the rate of SPO breaches is significantly less than for pre-existing orders, with interim SPOs accounting for more than half of all breaches.

## **The SPO process**

### **Purpose and scope**

SPOs are civil orders designed to allow the police to intervene in stalking cases even if the threshold for criminal proceedings for the commission of an offence has not been met. SPOs

are not an alternative to a prosecution for stalking; rather, they can be applied for in the absence of, or in conjunction with, a prosecution (Home Office, 2024c). SPOs can be applied for in cases where the police are satisfied that the perpetrator has ‘carried out acts associated with stalking’, ‘poses a risk associated with stalking to another person’, and when ‘there is reasonable cause to believe the proposed order is necessary to protect another person from such a risk’ (Stalking Protection Act 2019). SPOs can also be applied for or *against* children or young people aged 10 (the age of criminal responsibility) to 18.

As opposed to pre-existing protective measures for stalking, the police can apply for SPOs at any time during an investigation. This makes SPOs considerably more flexible than measures such as restraining orders, which are typically issued after a criminal trial or acquittal or non-molestation orders (NMOs), which are applied for by the victims themselves. SPOs also include a wider range of conditions than other measures, including prohibitions (conditions that restrict respondents from carrying out a specific action) and positive requirements (conditions that compel respondents to undertake a specific action). For this reason, the vast majority of practitioners interviewed for the study felt that SPOs were far more powerful and protective than pre-existing measures for stalking.

According to the Home Office (2024) statutory guidance, police should consider applying for SPOs at the start of every stalking investigation, whether it involves domestic abuse-related or ‘stranger’ stalking. The process of obtaining SPOs typically starts with the officer in charge (OIC) of the case identifying the potential need for SPOs and discussing this with their supervisor. However, the need for SPOs can be identified via other means. For example, one police practitioner (P2) explained that a specialist team in their force regularly checks stalking cases to identify opportunities to apply for SPOs. External sources can also request that the police apply for SPOs, including stalking victims and (more often in practice)

stalking and domestic abuse advocates. However, they have no power to compel the police to make an application.

In some cases, Multi-Agency Risk Assessment Conferences (MARACs) and other similar stalking panels, such as Multi-Agency Stalking Intervention Projects (MASIPs), make recommendations for SPO applications. MARACs are meetings at which information on high-risk domestic abuse is shared between representatives from sectors such as the local police, probation services, health, child protection, housing practitioners and independent domestic violence advocates. MASIPs are essentially the same as MARACs except that the meetings are tailored exclusively towards stalking, involving specialist stalking victim advocates and health professionals. These meetings aim to identify potential risks to the victim and implement an action plan to safeguard them. This can include recommendations for certain protective measures and orders, such as SPOs. Based on the approach outlined by the Suzy Lamplugh Trust (2021), MASIPs can also identify individual motivations of stalkers depending on their typology. The interviews with the police suggest that this is typically based on Mullen *et al.*'s. (1999) stalking typology: rejected, intimacy-seeking, incompetent, resentful and predatory stalkers.

### **Conditions for application**

A prerequisite to SPOs being considered is the successful identification of stalking behaviour in the first place. The Stalking Protection Act 2019 does not define stalking but outlines that stalking should be based on the behaviours listed in the Protection from Harassment Act 1997. However, stalking is undefined by the Protection from Harassment Act 1997, which only includes a limited list of stalking behaviours, thus hampering the successful

identification of stalking behaviour.<sup>17</sup> The interviews with practitioners that were conducted for this study indicate that the lack of identification of stalking by the police - which is generally recognised as a major issue in the policing of stalking (HM Inspectorate of Constabulary and HM Crown Prosecution Service Inspectorate, 2017; Taylor-Dunn *et al.*, 2021; HM Inspectorate of Constabulary *et al.*, 2024) – is also an important factor in understanding why SPOs are not being used more frequently in the policing of stalking.<sup>18</sup>

When considering whether to apply for SPOs, police must also ensure that SPO applications are made in the respondent's county of residence. If the respondent lives in a different area from the victim, the force that makes the SPO application (often the victim's local force) will be required to transfer the application to the respondent's force. In cases where SPOs have been transferred to a different force, statutory guidance advises that the applicant force should liaise with the victim's force to ensure that the circumstances of the case are thoroughly understood (Home Office, 2024c). According to the guidance, liaisons should involve sharing the details of the order and any risk assessments or risk management plans made by the applicant force. If the victim has been stalked in more than one force area (for example, at their workplace as well as their residence), the applicant force should liaise with these forces as well.

### **Victims' input**

SPO applications are the police's responsibility, so victims' consent or input is unnecessary. Stalking victims do not have to support a criminal prosecution for SPOs to be granted, as the two processes are separate.

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<sup>17</sup> See **Chapter 2**, the Literature Review, for a more in-depth examination of the Protection from Harassment Act 1997 and stalking legislation in England and Wales in general.

<sup>18</sup> For more on the issues involved in identifying stalking and the implications for SPO use, see **Chapter 5**.

Once the OIC has discussed the possibility of an SPO application with their supervisor, the OIC must seek the authorisation of an officer typically not below the rank of superintendent. The Stalking Protection Act 2019 specifies that ‘a chief officer of police may apply to a magistrates’ court for an order (a “stalking protection order”)’. The statutory guidance for the police from the Home Office (2024) is interpreted as a ‘chief officer of police (as delegated)’ and ‘not below the rank of superintendent’. However, only some forces use superintendents to authorise SPOs. The contacts from Cheshire Constabulary and Essex Police expressed surprise when informed that other forces did not do this.

Statistics on SPO authorisations were sought via FOI requests to the police. As the questions contained in the police FOI request were guided by a stalking specialist at Cheshire Police, the FOI requests asked how many SPO applications were authorised by superintendents, which caused some confusion in forces that did not require the authorisation of a superintendent. Responses regarding SPO authorisations also varied between forces, with some forces differentiating between interim and full SPO authorisations or providing lower numbers of authorisations than applications, depending on how the request for SPO applications was interpreted. Therefore, due to inconsistencies in the data, this chapter does not focus on statistics relating to SPO authorisations.

Although authorisation from a police officer is necessary, other practitioners can also have input into the decision to authorise an SPO application. As the participants in the qualitative interviews in this study explained, some forces have legal advisors or in-house legal services who can advise them on whether the application is strong enough to submit to the courts. For many police practitioners, having an in-house legal team or advisor eased and, in some cases, sped up the application process, thus increasing forces’ capacity to apply for SPOs. However, some practitioners took a more cynical view towards the abilities of in-house legal services. One victim support practitioner (P13) described legal services as a ‘mixed bag’, suggesting

that while teams could be helpful, ‘sometimes it's the opposite. It makes things harder because the legal team can come back and say, “Oh no, we don't have enough [evidence]”, and so they don't even bother to try [applying for an SPO]’. Other practitioners pointed out that some forces may have only one legal advisor or lack legal advisors who specialise in stalking or SPOs.

Another practitioner (P15, advocacy practitioner) explained that in many cases, SPO applications were being referred to Management of Sex Offenders and Violent Offenders (MOSOVO) officers due to a lack of certainty about which team should be responsible for SPOs. MOSOVO officers typically assess and monitor sex or violent offenders in the community and liaise with prisons to ensure the safe integration of offenders back into the community. However, Participant 15 reported that SPO applications put a significant strain on MOSOVO officers and did not necessarily fall within their remit. There are also obvious differences in the risk profile of sex offenders and stalkers, as the former tend to pose a risk to a group of people in general (e.g. children), while the latter typically pose a risk to a specific individual only.

### **Thresholds**

Decisions about whether the application is strong enough to submit are typically based on whether the threshold for the criteria and standard of proof under the Stalking Protection Act 2019 has been met. On 10<sup>th</sup> May 2024, the Home Office (2024) updated the statutory guidance on SPOs to the effect that the courts are ‘likely’ to apply the civil standard of proof (‘on the balance of probabilities’) to full SPO applications and interim SPO applications. As the study was conducted before this change was made, the criminal standard of proof for full

SPO applications was often described as a major obstacle to having applications considered or granted in court.

However, as I also discuss in more depth in **Chapter 5**, other considerations also weigh on the decision, including whether the respondent is already subject to a protective measure or order which could achieve the same or similar protection for the victim. Multiple interview participants stated that courts and some legal teams often did not know what SPOs were and used protective measures that they were more familiar with (such as bail conditions). In most cases, participants argued that SPOs would have been more appropriate as they have more powers than any other existing civil injunction or order for stalking.

If the application is not authorised by an authorising officer, the College of Policing (2024) recommends updating the crime report and reviewing risk and safeguarding options for the case. Exactly how this is done in practice, however, is unclear. Most interview participants did not provide insights into this. The few who did only briefly mentioned seeking other protective measures or gathering more evidence for SPOs or criminal prosecution.

### ***Submission to the courts***

If the authorising officer is satisfied that the case meets the criteria set out by the Stalking Protection Act 2019, the application will be submitted to the magistrates' courts. Depending on the resources available to the force, the OIC, in-house or external legal professionals, or both, may submit the application. In some forces, dedicated SPO Single Points of Contact (SPOCs) can apply for SPOs on behalf of the officers, although others may maintain an advisory role.

SPOs are civil orders (albeit with criminal consequences for breach) and hence fall under the jurisdiction of the magistrates' courts. SPOs can be heard in the Crown Court; however, this only applies to appeals against or breaches of an order. The Crown Court handles more

serious criminal cases such as murder and rape, but can also deal with appeals against a magistrates' court conviction or sentence or cases passed on from a magistrates' court. Cases against children and young people under 18 are held in the youth court.

### ***Interim vs full SPOs***

When submitting a request to the court, an application is made for both an interim and a full SPO simultaneously. Interim SPOs are intended to be temporary orders issued before the submission or determination of a full order in cases where there is an immediate risk of harm. Interim SPOs also require a lower standard of proof than full orders, meaning that the court was able to make one 'if it considers it appropriate to do so' on the balance of probability (Stalking Protection Act 2019).

In comparison, for a full SPO to be granted, the order must be 'necessary to protect another person' (Stalking Protection Act 2019). While interim SPOs are intended to speed up the process for implementing protective measures in high-risk cases, the interviews with practitioners strongly suggest that they are often no faster in practice.<sup>19</sup> As discussed in **Chapter 5**, participants in the qualitative interviews frequently referenced the simultaneous application for interim and full orders as a point of confusion for some police officers who assumed that interim and full applications were separate processes.

### **Judicial decision-making**

In court, the judge will examine and either grant or reject SPO applications. According to the participants, applications were often assessed according to whether the order was deemed necessary or appropriate for the case. For example, judges must establish whether the

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<sup>19</sup> As interim and full SPOs are applied for together, practitioner interviews (and pre-existing research) indicates that interim SPOs are subject to the same delays in attaining a court hearing. In several forces, interim SPOs were only granted due to full SPO cases being adjourned rather than being actively pursued (see **Chapter 5**).

respondent's course of conduct amounted to stalking and whether SPOs are necessary and proportionate to protect the victim. SPOs are regularly rejected based on these principles. Nonetheless, the practitioner interviews showed that these decisions were often skewed due to a lack of knowledge and understanding of SPOs in the courts. Many courts viewed SPOs as an unnecessary duplication in cases where there were pre-existing protective measures and civil orders in force against the respondent, despite the additional protections and longer period of protection that SPOs can afford.

### **Rejections and appeals**

If the court rejects the application for SPOs, the chief police officer or, more likely, the delegated authorising officer who applied for the order can appeal to the Crown Court. Chief police officers can also appeal to the Crown Court *against* making SPOs. This situation was only recorded once by a police practitioner (P5). In this case, SPOs had been revoked almost immediately by the police with the consent of the victim after the order was found to be inappropriate for the case and overly restrictive towards the victim.

### **The rights of victims**

Victims have a right to be informed that SPOs have been granted against their stalker. Whilst police or domestic abuse and stalking advocates have responsibility for informing the victim, there is evidence to suggest that this does not always happen in practice. One police practitioner (P17) in this study mentioned that their force 'thought they'd issued [an SPO] a few years ago, and it hadn't even been served'. The practitioner did not mention whether the victim had been wrongly informed that an order was in place. Furthermore, participants described a lack of victim engagement throughout most of the SPO process, from which it

can be inferred that some victims (especially those who are not supportive of the application) are not informed of SPOs being granted. Concerningly, the stalking super-complaint report found that in many stalking investigations, including those involving protective orders, victims did not receive regular updates or communication from the police, suggesting that this is a common issue in stalking investigations overall (HM Inspectorate of Constabulary *et al.*, 2024).

### **Information keeping and information sharing**

Once SPOs are granted, a record is made on the Police National Computer (PNC). The PNC is a national database managed by the Home Office and used by law enforcement agencies in the UK, allowing online access to criminal records in real time. Records of SPOs include the issue and expiry date of the order so that all forces in the UK can see that an SPO is active. Conditions imposed as part of the orders can also be added to the PNC, but this is not compulsory, meaning that forces other than the applicant force may be unable to see or, it follows, enforce specific conditions.

### **Enforcement and breaches**

After SPOs have been granted, the police have to enforce them. Under s.9 of the Stalking Protection Act 2019, respondents of (interim or full) SPOs must notify the police of their name and home address within three days of the order being served. If the respondent fails to notify the police or if they breach any of the other prohibitions and requirements in their SPOs without a reasonable excuse, this is considered a criminal offence. Accordingly, the police should make an arrest as soon as possible, although many practitioners indicated that the extent to which breaches are addressed is inconsistent.

Once the respondent has been arrested for a breach, their case will be heard in a magistrates' court or the Crown Court (excluding children and young people, who are dealt with by youth courts), depending on the type of breach. However, according to several participants, breaches tend to be tried in the Crown Court as a matter of course.

Once found guilty, the respondent can be subject to up to five years imprisonment, a fine, or both. Data on SPO breaches is freely available within the management information for SPOs from the Home Office and HM Courts and Tribunals Service (2023a).

### **Process overview**

Although the Home Office (2024) has issued statutory guidance on SPOs, the study's findings show that practice diverges significantly from these guidelines. It is chiefly apparent in the varied involvement of legal services and divergences in SPO authorisation procedures and management of SPOs across forces, highlighting significant variations in how individual forces operate. These differences may be attributable to the resources available in the force and the local area, including the involvement of legal services and guidance on SPOs from specialist officers or risk assessment panels. As a result, SPO use overall was found to be inconsistent and disjointed. Therefore, while the Home Office outlines how SPOs *should* be applied and managed in theory, practical considerations within individual forces influence how SPOs are used nationally.

I now examine how these varying procedures have played out in practice by examining the statistics for SPO applications, court grants and breaches.

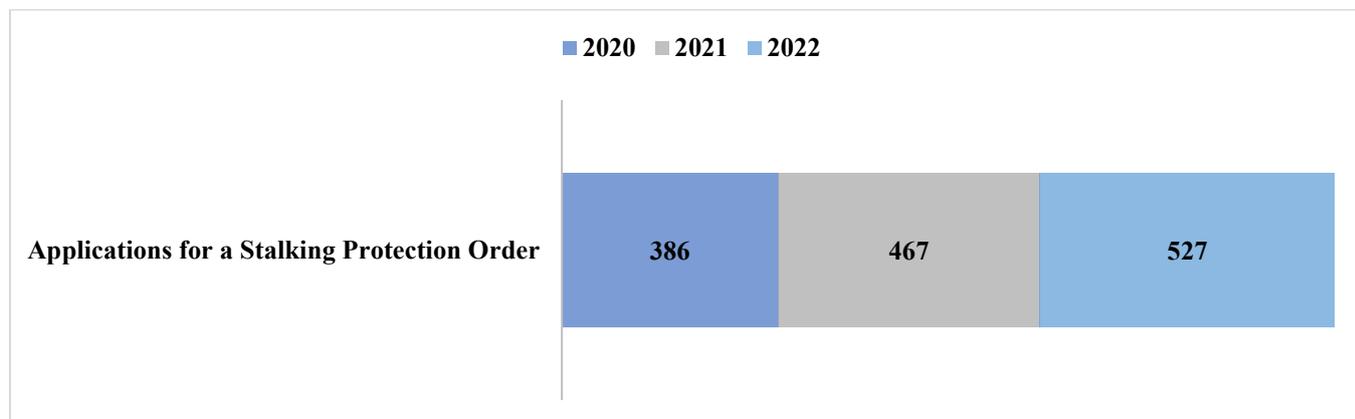
## Results

### How many SPOs have been applied for by the police?

To understand more about how SPOs are being implemented across the criminal justice system, it is essential to uncover whether, and if so, how the police use them. Police are responsible for most of the SPO process, including identifying a need for SPOs in a specific case, the application process, and ultimately enforcing the order. Accordingly, I submitted FOI requests to the police and courts to obtain statistics on the total number of SPOs in England and Wales between 2020 and 2022 to create a national picture of SPO use.

That data shows that SPOs are being applied for by the police infrequently and certainly less often than was expected, according to policy statements. According to FOI data from the HMCTS, 1,380 SPO applications were made by police in England and Wales from 19<sup>th</sup> January 2020 to 31<sup>st</sup> December 2022. The figures for the breakdown of applications per year (see **Figure 1**) show that SPO applications overall rose by 36.5% from January 2020 to December 2022, representing a substantial increase. Interestingly, the increase between 2020 and 2021 was significantly higher (21%) than between 2021 and 2022 (12.8%), despite the incidence of COVID-19 and the subsequent lockdowns during this period. This indicates that the increase in SPO applications may be slowing down. Nevertheless, as this is based on a period of just three years, it cannot yet be ascertained whether this trend has continued.

**Figure 1** Applications for SPOs made by police in England and Wales from 19<sup>th</sup> January 2020 to 31<sup>st</sup> December 2022, according to HMCTS FOI data.



To establish whether SPOs were being used consistently across police forces, an aim which was encouraged by the Home Office in their SPO review, I also requested data on SPO applications per force in two tranches to increase coverage. Out of 44 forces that responded to the FOI request, 39 provided data on SPO applications.<sup>20</sup> However, not all forces provided data for both tranches, meaning that some forces only gave data for January 2020 to April 2022 or May to December 2022. Although I requested individual statistics on SPO and interim SPO applications, most forces (31) did not differentiate between interim and full SPO applications in their responses.<sup>21</sup> Nonetheless, 15 forces were able to differentiate between interim and full SPO applications in one *or* both responses.<sup>22</sup>

<sup>20</sup> Only Derbyshire Constabulary, the Metropolitan Police Service, Norfolk Constabulary, Nottinghamshire Police and Wiltshire Police were unable to produce statistics on SPO applications. One of the reasons given for this by Warwickshire Police was that there were no flags or markers in the crime recording system that identify when an SPO application has been made. As a result, the force was unable to provide a specific count of SPO applications.

<sup>21</sup> The reason given for this was that forces did not require officers applying for SPOs to differentiate between an interim and a full order, as the application process is the same. Accordingly, there is no separate application for an interim or full SPO.

<sup>22</sup> Cleveland was an exception in that it specifically reported on full SPO applications but gave no data on interim orders due to no information being held. Accordingly, it cannot be confirmed whether this was because there were no interim SPOs applied for, or no data collated on them. Yet, despite a lack of clarification, given that most forces provided undifferentiated SPO application statistics, it is plausible that the figures for full SPO applications may represent both interim and full applications. If this is the case, the number of full SPOs may be higher than the actual count, thus skewing the results. Surprisingly, Essex Police and Merseyside Police

However, given the vast differences in populations and resources between forces, it is logical that the statistics for some forces would reveal vastly different numbers of SPO applications. To account for these differences, I analysed the data for undifferentiated and differentiated SPO applications separately.<sup>23</sup> First, I calculated undifferentiated SPO applications according to a rate per 100,000 people in each force area. These figures show that the use of SPOs is low across most of the forces, regardless of population differences. As shown in **Figure 2**, the average rate of undifferentiated SPO applications per 100,000 people in each area was just 2.2, with a range of 6.7.<sup>24</sup>

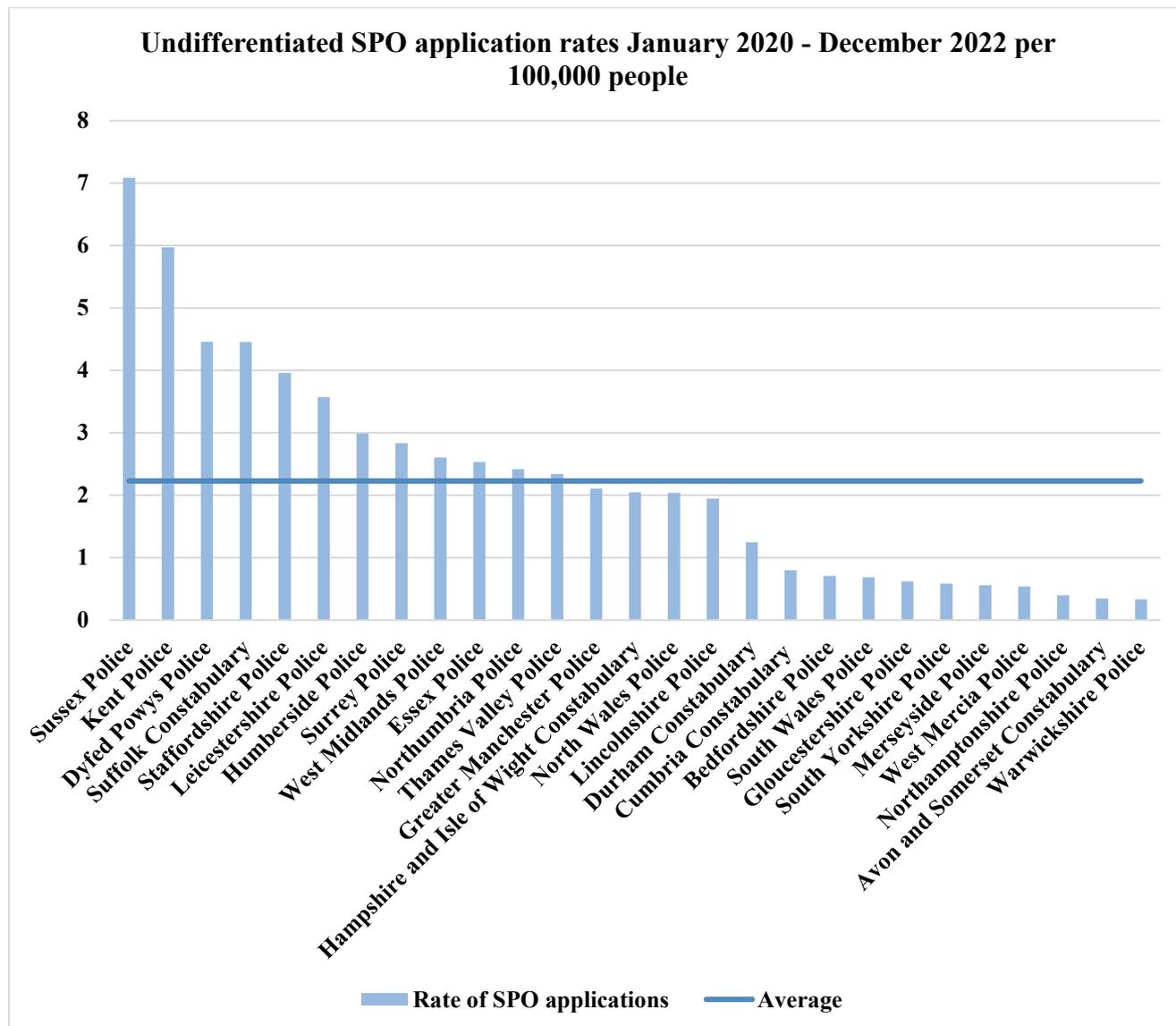
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produced figures for undifferentiated and differentiated SPO applications in their responses, causing further confusion.

<sup>23</sup> Initially, I added forces with differentiated interim and full SPO applications together to match the undifferentiated forces for analysis. However, I subsequently decided not to do this due to concerns that the figures for full SPO applications represented the overall count of applications. As a result, adding interim applications to full SPO applications would incorrectly inflate the number of SPO applications in each force.

<sup>24</sup> For the actual figures on undifferentiated and differentiated SPO applications per force, see **Appendix J**.

**Figure 2** Rate of undifferentiated SPO applications per 100,000 people in each force (Office for National Statistics, 2024b) for 19<sup>th</sup> January 2020 to 31<sup>st</sup> December 2022, according to police FOI data.<sup>25</sup>



I also asked forces for the number of stalking incidents that occurred from 19<sup>th</sup> January 2020 to 31<sup>st</sup> December 2022. All the respondent forces could produce statistics on stalking incidents, although seven forces did not provide statistics in their second FOI response.<sup>26</sup> As a

<sup>25</sup> I gathered force population figures from the Office for National Statistics (2024) police force area tables, for the year ending December 2021, March 2022 and December 2022. These figures were then matched to the period for which data were available for SPO applications.

<sup>26</sup> These forces included Avon and Somerset Constabulary, Durham Constabulary, Gwent Police, Humberside Police, Lancashire Constabulary, the Metropolitan Police Service and Northamptonshire Police. Essex Police answered the second FOI request but only provided data up to November 2022.

result, I calculated the rate of SPO applications according to stalking incidence for each force. Stalking incident data for each force was matched to the periodic data that was available for SPO applications and vice versa.<sup>27</sup> This analysis was important as it enabled me to directly compare the use of SPOs to the prevalence of stalking in different forces. The analysis also determined to what extent the population and stalking prevalence for each force area influence the use of SPOs nationally and within each force. Through this analysis, I was also able to include the British Transport Police and Ministry of Defence Police, which did not appear in the analysis for force population due to not having a comparable population.

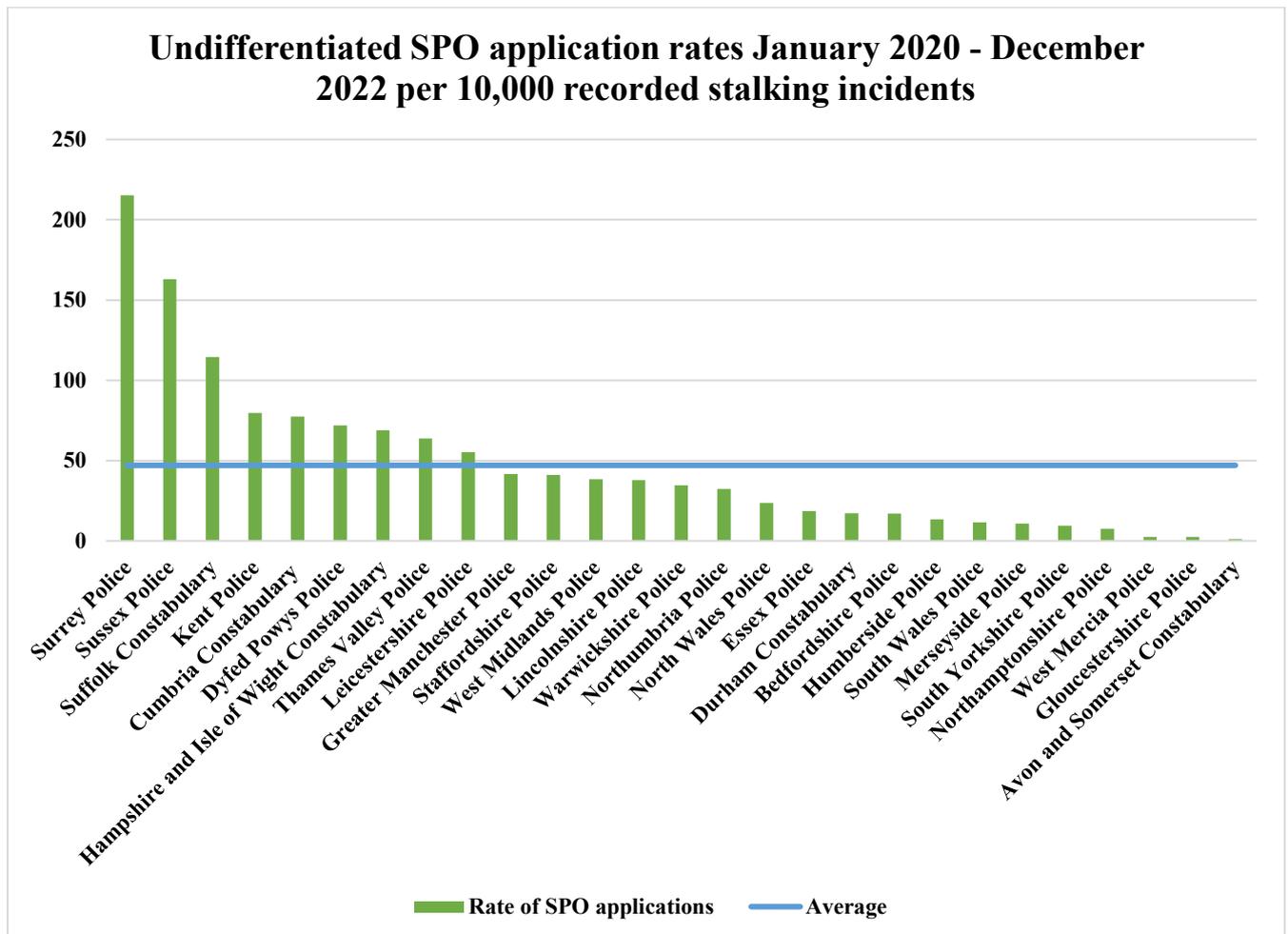
When calculated per 10,000 stalking incidents, the rate of undifferentiated SPO applications was similar to the rate for the population, which was calculated per 100,000 people in each force area (**Figure 3**). Based on stalking incidents, the average rate was 47.1, ranging from 1.1 to 215.2 (214.1), demonstrating an uneven distribution of applications across forces.

Interestingly, based on stalking incidents, Surrey Police had the highest rate of SPO applications compared to Sussex Police, which had the highest based on force population (7.1). Accordingly, this may indicate that the rate of SPO applications for Surrey Police is more closely aligned with the incidence of stalking compared to other forces.

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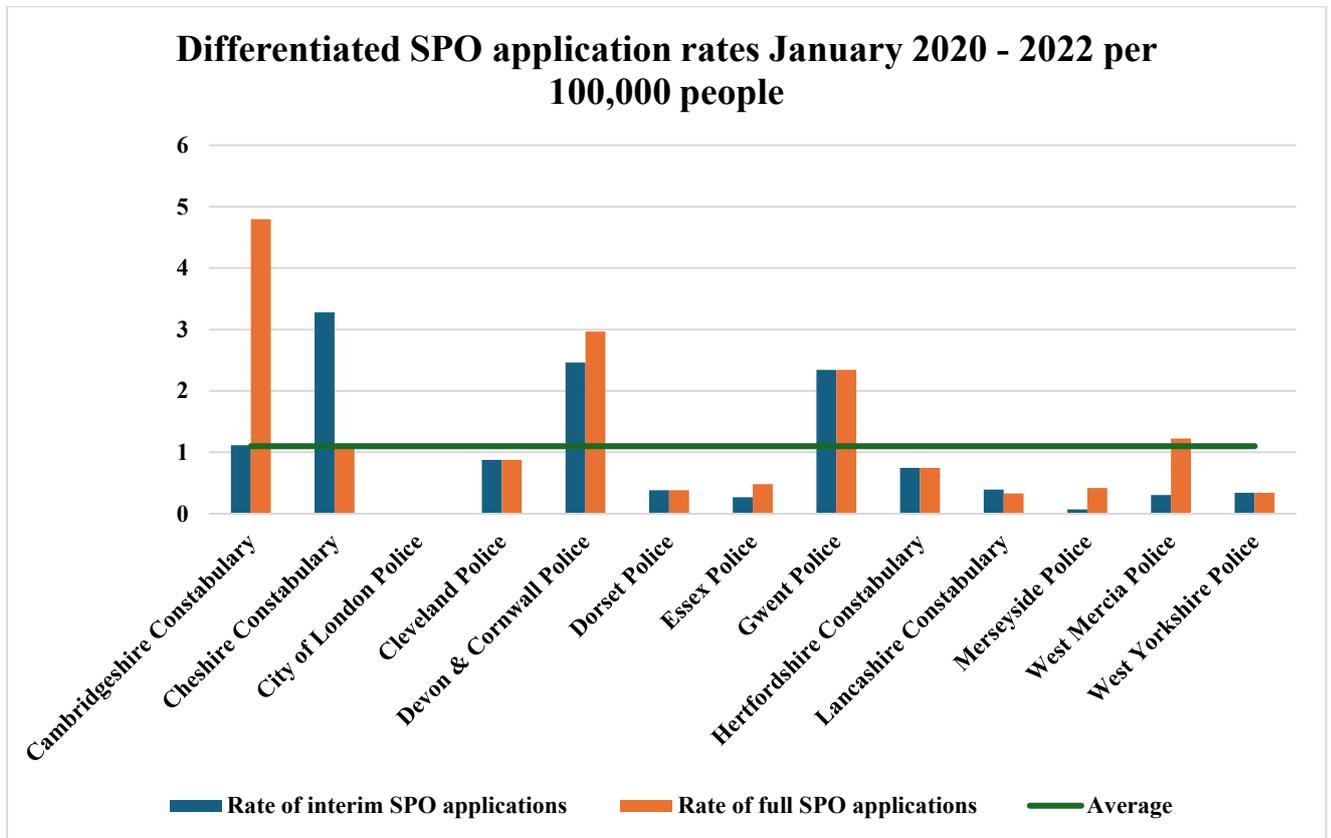
<sup>27</sup> The various police forces' interpretation of 'stalking incidents' differed, as some produced stalking 'crime' data instead of incident data and therefore the figures should be treated with caution. It is also likely that forces recorded multiple incidents/crimes committed by the same perpetrator, given the repetitive and harassing nature of stalking.

**Figure 3** Rate of SPO applications per 10,000 stalking incidents for 19<sup>th</sup> January 2020 to 31<sup>st</sup> December 2022, according to police FOI data.



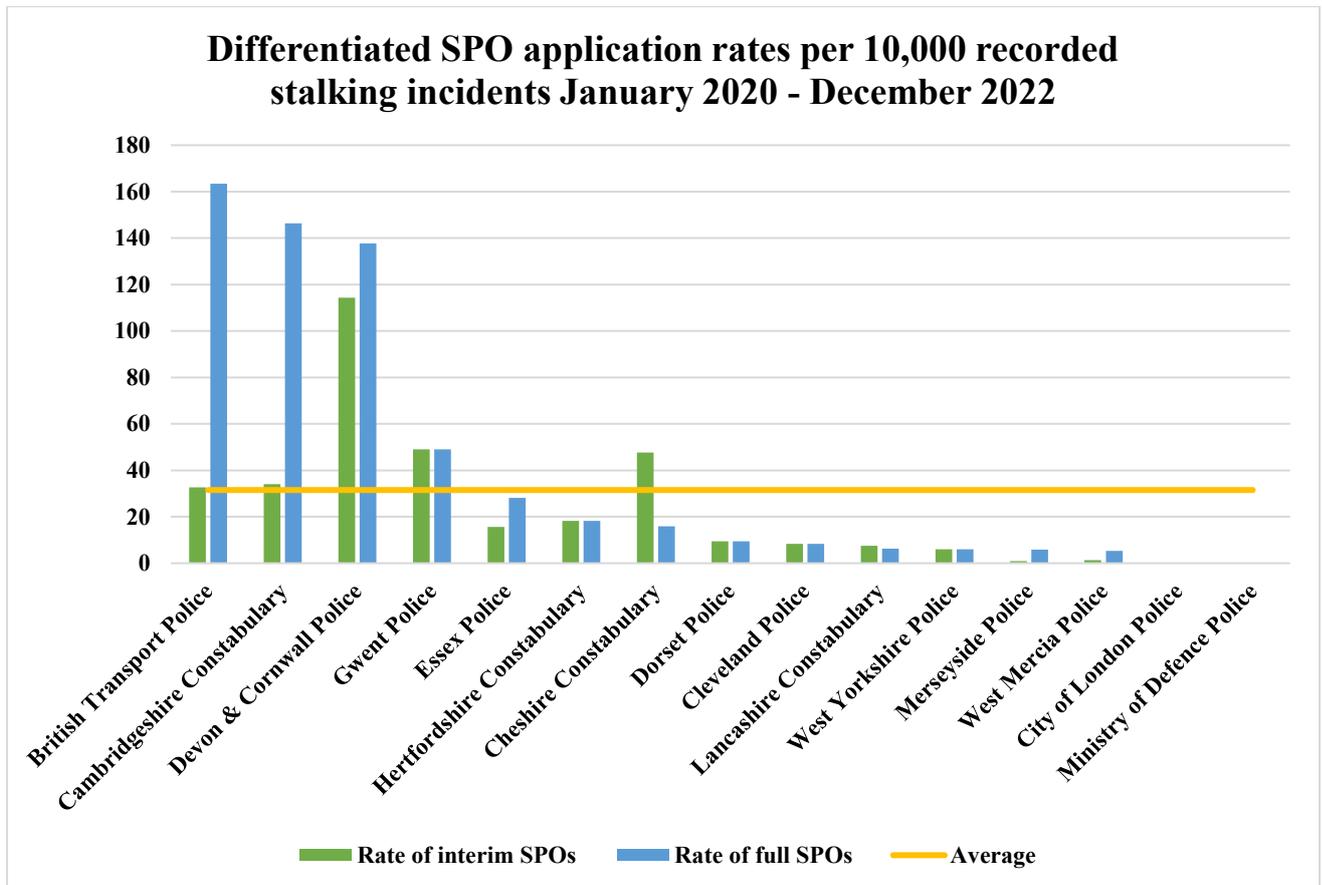
In contrast, for the 15 forces with differentiated applications, the average rate of SPO applications per 100,000 people (**Figure 4**) was significantly lower at 1.1, with a range of 4.8. This was expected as there were considerably fewer forces with undifferentiated SPO applications than differentiated ones. As was the case with differentiated applications, the average was much larger when compared to stalking incidents, producing an average of 31.5 per 10,000 stalking incidents and a range of 163.4 (**Figure 5**). Furthermore, the force with the highest rate of applications was the British Transport Police rather than the Cambridgeshire Constabulary.

**Figure 4** Rate of undifferentiated (SPOs and interim SPOs) SPO applications per 100,000 people in each force (Office for National Statistics, 2024b) for 19<sup>th</sup> January 2020 to 31<sup>st</sup> December 2022, according to police FOI data.<sup>28</sup>



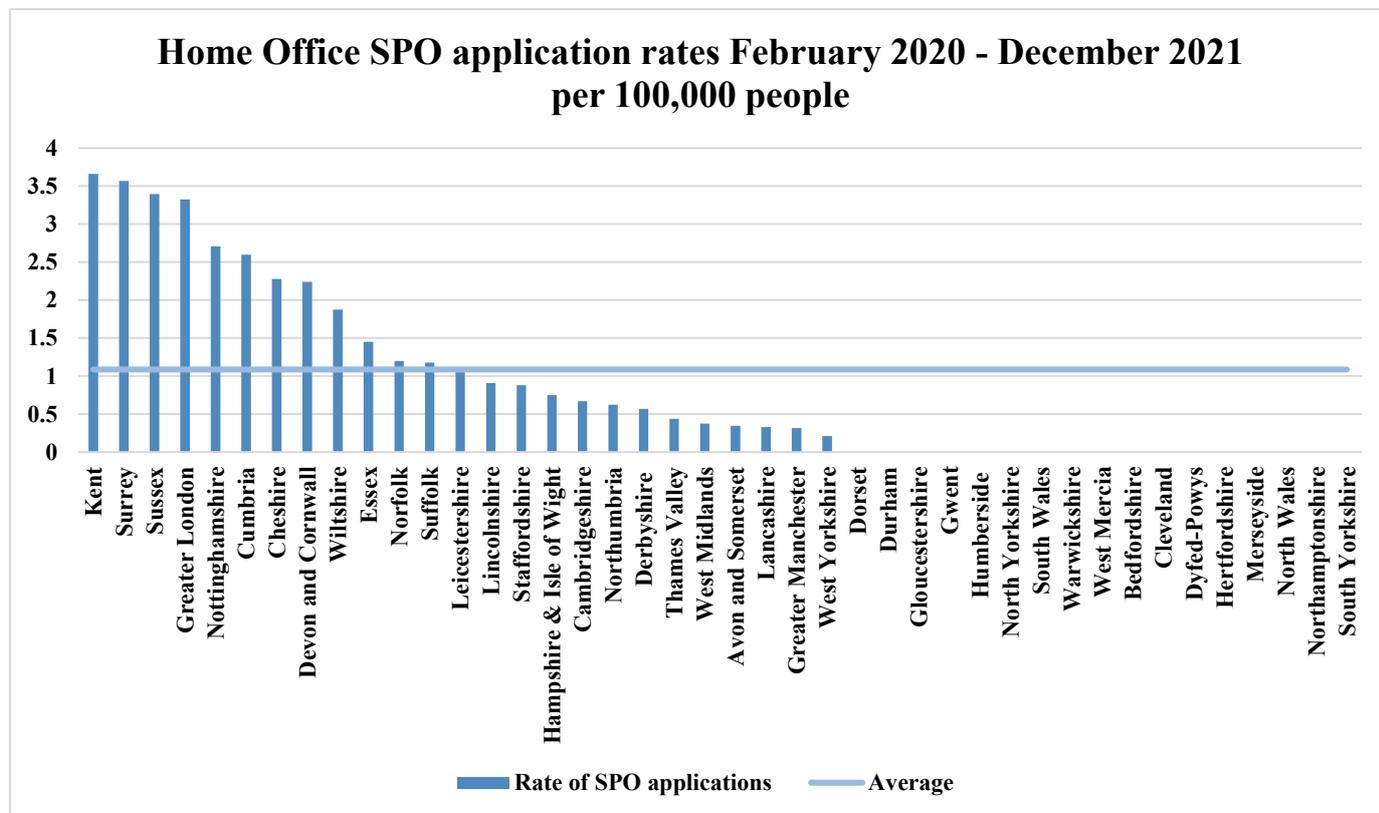
<sup>28</sup> Cleveland Police provided figures of <5 interim and full SPO applications only for May to December 2022. For the data analysis, these figures were input as 5 and therefore may be more than the actual figure. The British Transport and Ministry of Defence Police were also excluded from the population analysis as they did not have a comparable population to calculate a rate of applications.

**Figure 5** Rate of differentiated (SPOs and interim SPOs) SPO applications per 10,000 stalking incidents from 19<sup>th</sup> January 2020 to 31<sup>st</sup> December 2022, according to police FOI data.



To compare the data with official sources, I also calculated an average rate from the SPO application statistics published by the Home Office and HM Courts and Tribunals Service (2023a) based on forces' populations (**Figure 6**). I was unable to do likewise with stalking incidents, as the period for SPO applications (February 2020 to December 2020) did not correlate with the stalking incident data (January 2020 to April 2022 and May 2022 to December 2022). As the official statistics only cover the period from February 2020 to December 2021 and were collected by Local Criminal Justice Boards, they are not directly comparable to the FOI data. However, the official statistics can give us an idea of whether and, if so, how SPO use by forces has progressed since December 2021.

**Figure 6** Rate of SPO applications according to Home Office and HM Courts and Tribunals Service (2023a) data for February 2020 to December 2021 per 100,000 people in the force population.<sup>29</sup>



Based on official statistics, the average rate of SPO applications per 100,000 people was 1.1, with a range of 3.7. This figure matches the average taken from the forces with differentiated applications and is lower than the average of 2.2 for forces with undifferentiated applications. Interestingly, the forces with the most SPO applications in the FOI datasets, including Kent and Sussex Police, were also presented as having the highest rates in the official statistics. The only exception was Greater London Police, or the Met, which was not included in the FOI datasets. However, this was not the case for all the high-performing forces, with forces such as Cambridgeshire Constabulary showing a considerably lower rate of SPO applications

<sup>29</sup> Forces with no rate either had zero SPO applications or their figures were suppressed due to having fewer than five applications.

in the official statistics than in the FOI datasets. This may suggest that while forces such as Kent and Sussex Police have implemented SPOs consistently, other forces significantly increased their use of SPOs in 2022.

Overall, both the rate of SPO applications obtained from the FOI data and official statistics demonstrate that although the use of SPOs is gradually rising, it remains consistently low in England and Wales, with less than a handful of forces making significant numbers of applications. However, it is evident that these forces are having considerably more success in applying SPOs, suggesting that there are significant barriers preventing other forces from implementing them.

### **How many SPOs have been granted by the courts?**

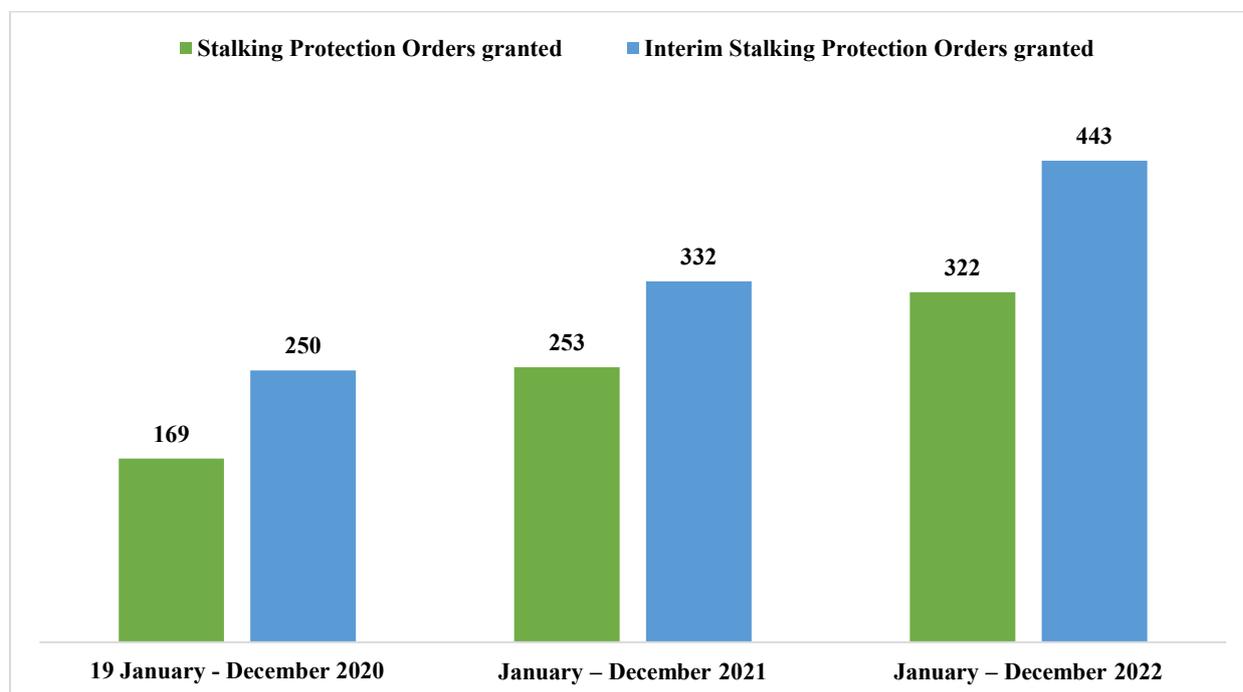
Although SPO applications can signify the police's use – or intended use - of SPOs, it is up to the magistrates' courts to decide whether to grant an order. Therefore, the number of SPOs granted can indicate the courts' and police's commitment to using all available legal and operational tools to tackle stalking. Examining the rate of court grants and comparing this to the rate of applications can reveal issues relating to the court processing of SPOs.

Accordingly, I requested that the HMCTS and police forces provide the number of SPOs granted by the courts from 2020 to 2022.

According to the HMCTS, the courts granted 1,769 SPOs from 19<sup>th</sup> January 2020 to 31<sup>st</sup> December 2022 in England and Wales, compared to 1,380 SPO applications in the same period. The number of SPOs granted includes both interim and full orders and consequently appears greater than the number of applications. In some cases, there may be multiple SPOs granted, meaning that one application may eventually result in more than one order (Home Office and HM Courts and Tribunals Service, 2023a).

Of the SPOs granted, interim SPOs accounted for 57.9% (1,025) and full SPOs for 42.1% (744) of the total (see **Figure 7**). As shown in the graph, the courts granted higher numbers of interim SPOs each year, indicating that they have been granting interim SPOs more consistently than full orders. As the data only represents the period from 2020 to 2022, it is currently unknown whether this trend has continued.<sup>30</sup> Surprisingly, higher numbers of interim SPOs for individual forces were not reflected in the police FOI responses, with significantly fewer interim SPOs granted within forces or overall. However, this is probably due to a combination of the sample not being wholly representative nationally and incomplete FOI responses.

**Figure 7** SPOs and interim SPOs granted by the courts from 19<sup>th</sup> January 2020 to 31<sup>st</sup> December 2022, according to HMCTS FOI responses data.



<sup>30</sup> Findings from the stalking super-complaint report indicate that the use of full SPOs has increased, with 304 full and 227 interim SPOs granted by the courts in the year ending 31st March 2023 (HM Inspectorate of Constabulary *et al.*, 2024). However, as publicly available data on SPOs has not been updated since then, it cannot be ascertained whether this is a long-term trend.

To examine the rate of SPO court grants per force, I also requested data on SPOs granted in individual forces from the police. All the forces that responded provided data on court grants, including the number of full SPOs and interim SPOs.<sup>31</sup> This meant that the data on SPO court grants was much more comprehensive than the statistics provided for SPO applications. However, some forces only provided statistics for the period from January 2020 to April 2022, meaning that the sample is neither representative nationally nor representative of the full year of 2022.

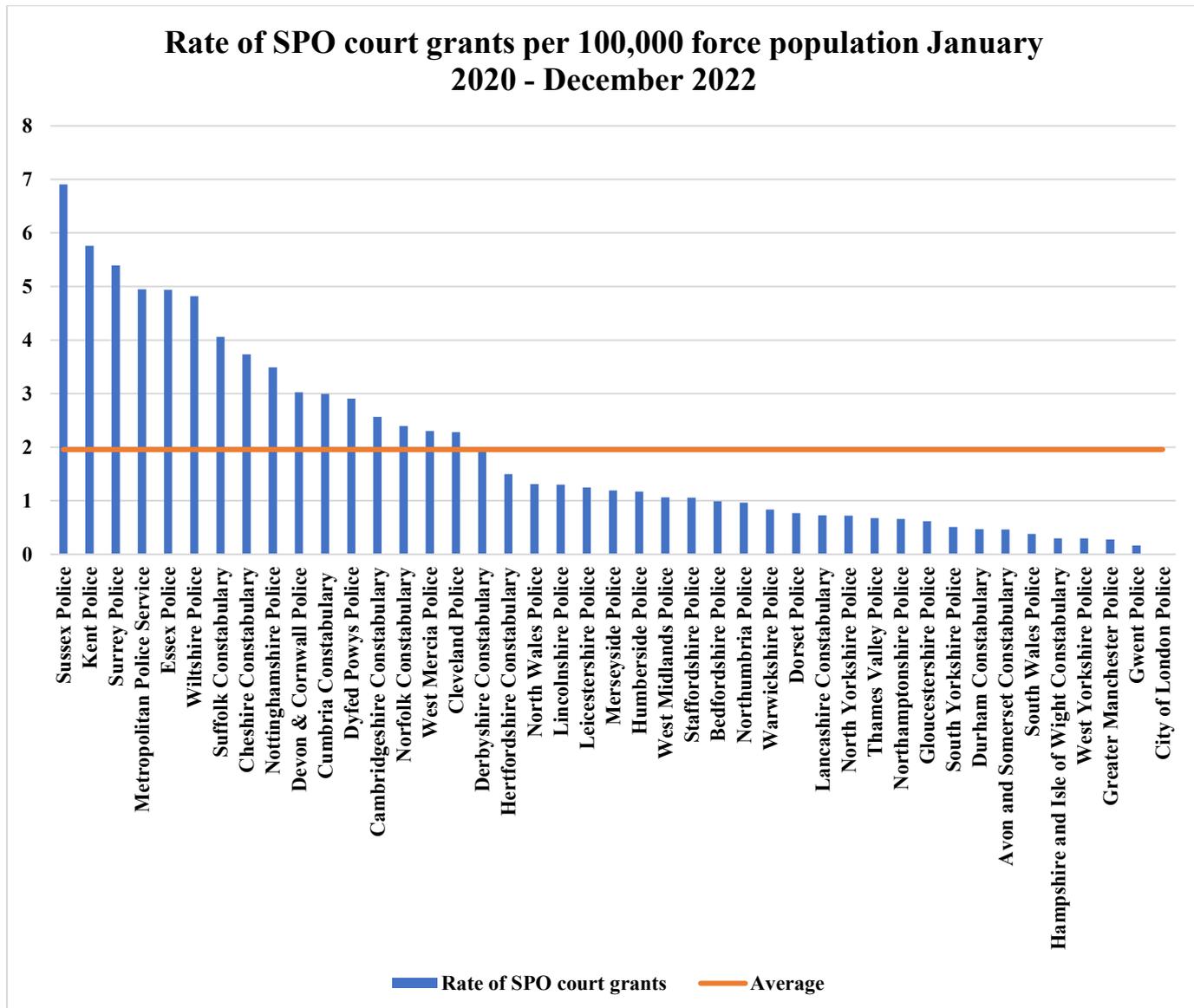
SPO court grants are unsurprisingly low across England and Wales. As shown in **Figure 8**, the rate of SPOs granted by the courts<sup>32</sup> per 100,000 people in each force averaged just 2. Predictably, only some exceptional forces attained more significant numbers of SPO court grants. For instance, just three forces (Sussex, Kent, and Surrey Police) presented a rate of court grants above 5. Most of the remaining forces were well below the average rate of court grants, regardless of the period covered by the data. For instance, eight forces (Warwickshire, Dorset, Thames Valley, Gloucestershire, South Yorkshire, South Wales, West Yorkshire and the City of London Police) were below 1 SPO grant for the whole period from January 2020 to December 2022.

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<sup>31</sup> Kent Police was the only force to not specifically differentiate between interim and full SPOs, so the statistics provided for court grants may or may not represent the total number of interim and full SPO court grants combined.

<sup>32</sup> For the exact number of SPOs granted by the courts, see **Appendix L**.

**Figure 8** Rate of the total number of SPOs granted by the courts per 100,000 people in each force<sup>33</sup> for 19<sup>th</sup> January 2020 to 30<sup>th</sup> April 2022 and 1<sup>st</sup> May 2022 to 31<sup>st</sup> December 2022 according to police FOI data.<sup>34</sup>



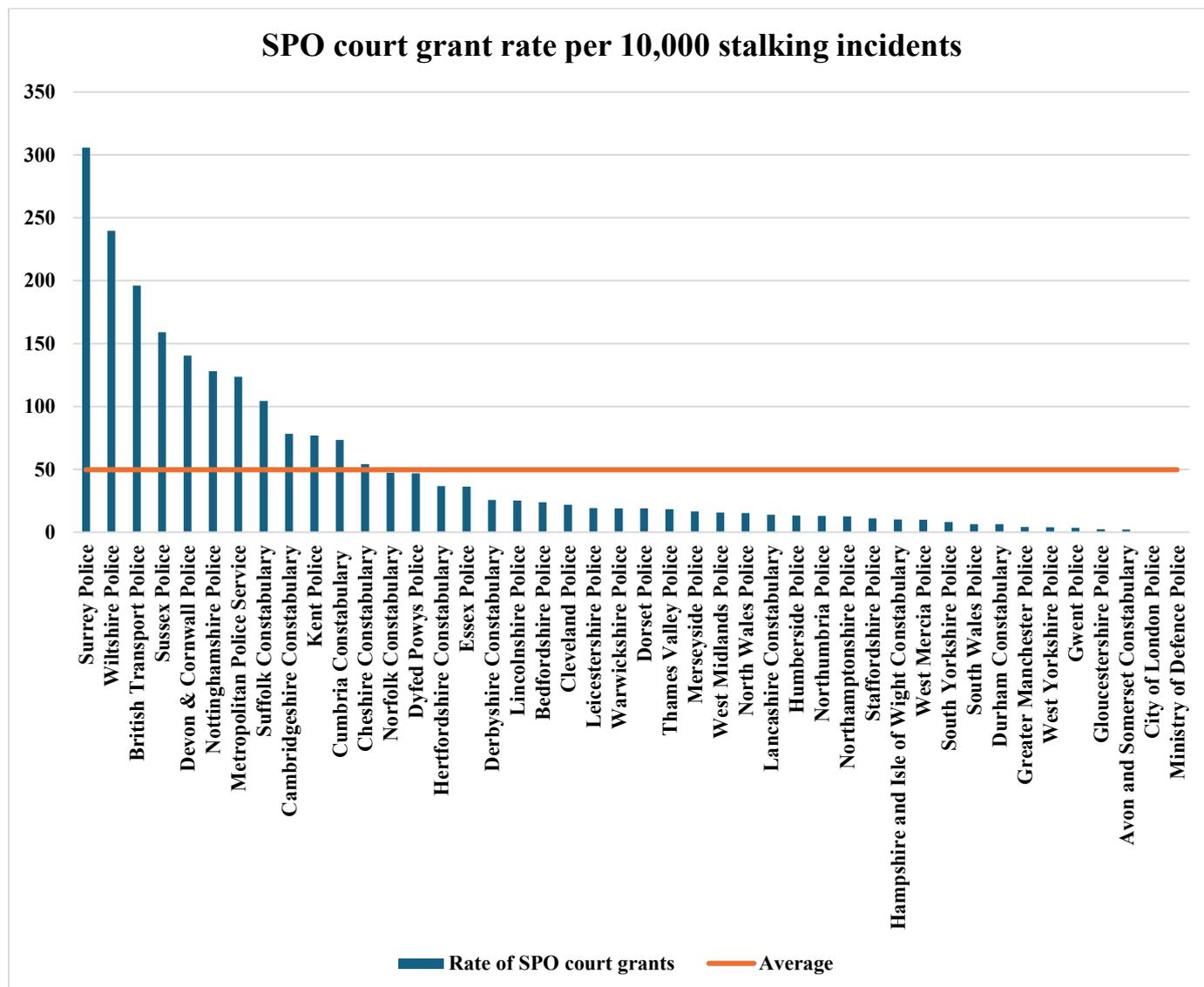
<sup>33</sup> While I calculated most force rates based on police force area tables according to the data available (Office for National Statistics, 2024), Devon and Cornwall Police had no available population figures for the year ending December 2022 dataset. Consequently, the rate for Devon and Cornwall Police was based on the force population given in the police force area table for the year ending September 2022. Additionally, I excluded the British Transport Police and the Ministry of Defence Police from this analysis due to the lack of comparable force populations.

<sup>34</sup> Nottinghamshire Police provided figures of <5 interim and full SPO applications only for May to December 2022. For the data analysis, these figures were input as 5 and therefore may be more than the actual figure.

To compare the rate of SPO court grants against stalking incidents, I requested the number of stalking incidents in each force from 19<sup>th</sup> January 2020 to 30<sup>th</sup> April 2022 and from 1<sup>st</sup> May 2022 to 31<sup>st</sup> December 2022. All the forces that responded to the FOI requests provided data on stalking incidents. In the case of forces that did not give stalking incident data in their second FOI response, the data were matched to statistics for SPO court grants representing the same period.

As with the SPO applications, I calculated the rate of court grants per 10,000 stalking incidents in each force to determine the use of SPOs in relation to stalking perpetration. According to the figures on stalking incidents, the average rate of court grants was 49.7, with a range of 305.9 (see **Figure 9**). The British Transport Police and Ministry of Defence Police were included in this analysis as they provided data on stalking incidents, which enabled rates of SPO court grants in their forces to be calculated. These figures showed that the spread of SPO court grants varied significantly. For example, the forces with the highest court grant rates differed, with Surrey, Wiltshire and the British Transport Police presenting a rate higher than or equal to approximately 200 SPO court grants. While Sussex Police still had a substantial rate of SPO court grants (159), it did not present the highest rate of grants as it had done for SPO applications when compared to force population.

**Figure 9** Total rate of SPOs granted by the courts per 10,000 stalking incidents in each force for 19<sup>th</sup> January 2020 to 31<sup>st</sup> December 2022, according to police FOI data.



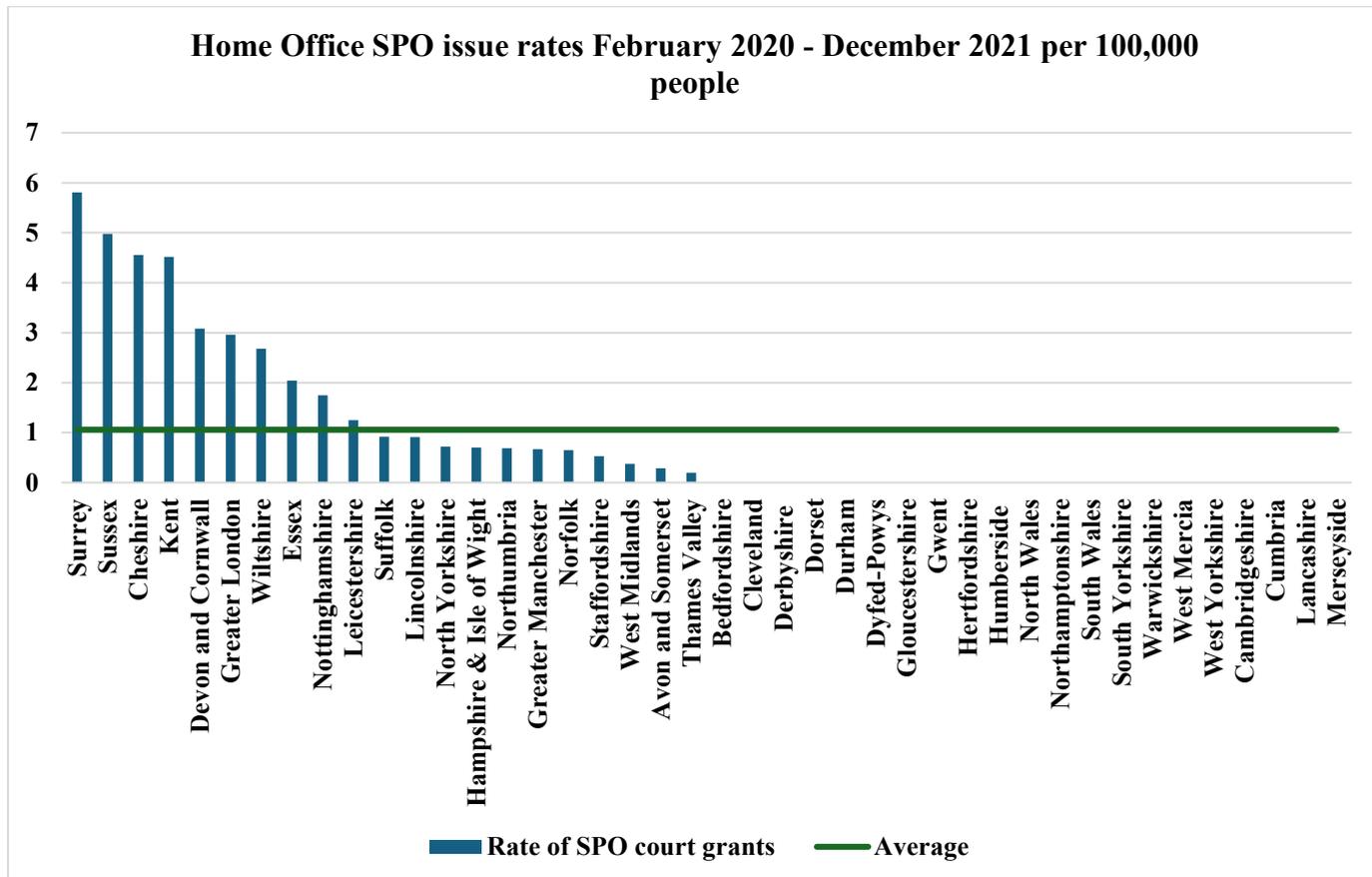
To facilitate a comparison with official sources, I also calculated the rate of SPOs issued<sup>35</sup> using SPO statistics from the Home Office and HM Courts and Tribunals Service (2023a) and force population (**Figure 10**).<sup>36</sup> Based on data from Local Criminal Justice Boards from February 2020 to December 2021, an average of 1.1 SPOs were issued per 100,000 people,

<sup>35</sup> Following the official statistics, I refer to SPO court grants here as ‘issues’ although they are most likely synonymous.

<sup>36</sup> As was the case with SPO applications, analysis of stalking incidents was not undertaken as the period for SPO applications (February 2020 to December 2020) did not correlate with the stalking incident data (January 2020 to April 2022 and May 2022 and December 2022).

with a range of 5.8. This was lower than the average calculated from the FOI data based on force population (2), an unsurprising finding given that the official statistics only cover the period from 2020 to 2021. Notably, Sussex, Surrey, Cheshire and Kent Police were once again among the highest performing forces in both the official statistics and FOI datasets. Nonetheless, the spread of forces was different, with forces such as the Met (included in the Greater London Police) presenting considerably lower rates. This strongly suggests that while some forces have used SPOs consistently since their introduction, the use of SPOs by other forces has increased somewhat since December 2021.

**Figure 10** Rate of SPOs issued according to Home Office and HM Courts and Tribunals Service (2023a) data for February 2020 to December 2021 per 100,000 people in the force population.<sup>37</sup>



Overall, despite differences between the rate of SPO court grants according to force population, stalking incidents and official statistics, the number of SPO grants remains low nationwide. However, as is evident from the findings, some forces are having significantly more success in using SPOs. The differences in SPO use between forces strongly indicate that there are considerable barriers to implementing SPOs more widely in many forces. It also suggests that forces with higher numbers of SPOs may have specific facilitators that enable them to apply for SPOs more easily, or do not encounter barriers that prevent them from

<sup>37</sup> Forces with no rate either had zero SPO applications or their figures were suppressed due to having fewer than five applications.

using SPOs that other forces face. I explore factors that help to explain the inconsistent use of SPOs later in the discussion and in **Chapter 5**.

### **How many SPOs have been breached?**

Collecting statistics on the number of SPO breaches can provide various insights into whether and, if so, how SPOs work. For instance, the number of breaches could be used to gauge SPOs' effectiveness as a deterrent or preventive measure. Alternatively, the case could be made that increased breaches prove that the order is working in terms of holding stalking offenders accountable. However, the statistics on breaches can reveal far more than whether orders are effective. In some cases, breach statistics have been used to reveal whether court proceedings for breaches of orders are overtaking prosecutions of criminal offences, especially in relation to domestic abuse (Bates and Hester, 2020). Breaches of SPOs can, therefore, give an indication of whether respondents are complying with their orders, if they are being proactively policed and if they are prioritised over stalking prosecutions.

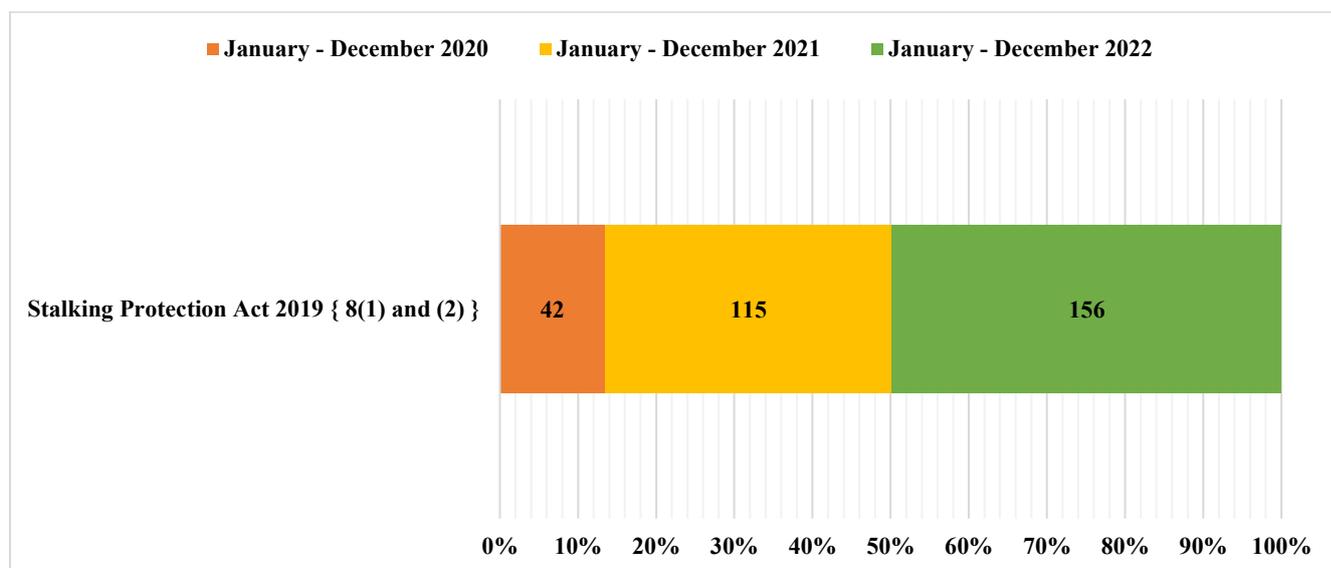
To address this question, I requested figures on breaches of SPOs from January 2020 to December 2022 from the CPS. According to the FOI responses from the CPS, SPOs are being consistently breached. From 1<sup>st</sup> January 2020 to 30<sup>th</sup> April 2022, there were 236 offences recorded under s.8 (offence of breaching an SPO) and s.11 (offences relating to notification) of the Stalking Protection Act 2019. In the second and third FOI responses, the CPS further clarified that 313 breach offences had been charged under s.8 (1) and (2) and reached a first hearing at the magistrates' courts from January 2020 to December 2022 (see **Figure 9**).<sup>38</sup>

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<sup>38</sup> Data relates to the number of offences recorded in magistrates' courts, in which a prosecution commenced, as recorded on the CPS Case Management System. The data was drawn from the CPS's administrative IT system, which the CPS cautioned is subject to errors relating to data entry and processing. The figures are provisional and subject to change as more information is recorded by the CPS. Therefore, the figures produced may be inaccurate.

Thus, when comparing SPO breaches to SPOs granted (1,769), SPO breaches represented 17.7% of all SPOs granted.<sup>39</sup> While this is a significant rate, as discussed below, it represents a considerable improvement compared to pre-existing civil orders used for stalking.

**Figure 9** SPO offences charged and that reached a first hearing at the Magistrates' courts under s.8(1) and (2) according to CPS FOI responses.



Since the introduction of SPOs, breaches of these orders (offences under s.8) increased by 73.8% from 2020 to 2021 (from 42 to 115) and by a further 35.7% in 2022 (156). This is expected as it would logically take time to breach an SPO and for this offence to reach a first hearing, particularly as SPOs had only been introduced three years previously. Overall, SPO breaches increased by 271.4% from January 2020 to December 2022.

In the FOI request, I asked for a breakdown of the number of interim and full SPO breaches. Interim SPOs are temporary orders used in high-risk cases to protect victims or to cover the

<sup>39</sup> Due to differences in data collection between the HMCTS and CPS and possible errors in retrieving data, this should not be taken as the definite rate of SPO breaches.

time spent waiting for a full order to be granted. Therefore, a higher rate of interim breaches could suggest that these cases were more likely to relate to more persistent and dangerous stalking behaviour. Thus, higher rates of breaches for these offenders would be expected. Conversely, lower rates could indicate that SPOs are potentially more effective for this subset of plausibly more dangerous offenders.

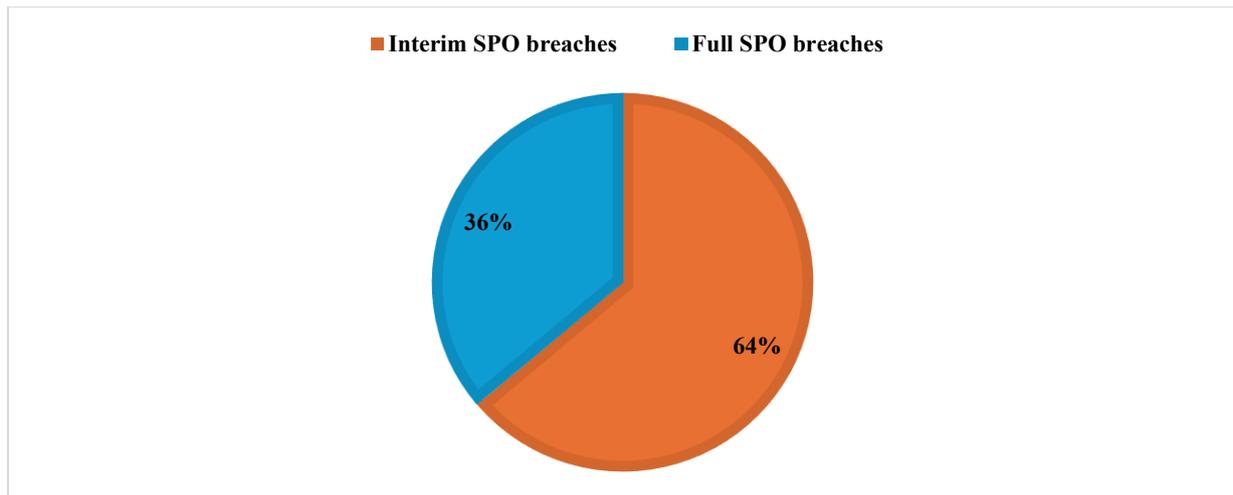
From conducting a manual review of 148 individual case files to calculate the number of interim and full SPO breaches, the CPS reported 166 interim SPO breaches compared to 94 full SPO breaches. In other words, interim SPOs represented 64% of the total SPO breaches and full SPOs accounted for 36% (see **Figure 10**)<sup>40</sup>. While the higher number of interim SPO breaches could be attributed to the greater prevalence of interim SPOs granted (57.9% of total SPOs granted), the breach statistic is still slightly higher. Consequently, it can be inferred that

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<sup>40</sup> However, this figure should be treated with caution as it only represents the number of individual case files that the CPS were able to review within the scope of the original FOI request.

more interim SPOs are being breached than full SPOs, implying that interim orders reflect more determined and high-risk stalking behaviour.

**Figure 10** Percentage of interim and full SPO breaches according to FOI responses from the CPS.



Although it was impossible to break down the breaches by individual force, it can be surmised that, as with SPO applications and court grants, breaches are inconsistently spread across England and Wales. Based on these results, it is clear that, unlike the case of restraining orders and non-molestation orders for domestic abuse (Bates and Hester, 2020), SPO breaches or the wider use of SPOs are not yet overtaking stalking prosecutions, as some campaigners feared (Townsend, 2020). Several campaigners, such as the chair of Paladin, raised concerns that SPOs could follow Domestic Violence Protection Orders (DVPOs) in being used as an alternative to prosecution. They argued that this would be detrimental as orders do not give respondents a criminal record or put them in immediate custody, two measures which campaigners maintain are essential in protecting stalking victims. However, as I explain later in the chapter, these concerns do not appear to have materialised *yet*.

## **Discussion**

### **SPO use and research on stalking**

How do these results fit with current research on SPOs and stalking? The findings strongly support existing research on SPOs, indicating that their use across forces nationwide is consistently low. Previous research by the Suzy Lamplugh Trust (2021b) reported that only 9% of victims whose stalking had started after the first COVID-19 lockdown had SPOs in place. The ‘insufficient use’ of SPOs also formed a significant component in the super-complaint about the police response to stalking submitted by the Suzy Lamplugh Trust (2022) on behalf of the National Stalking Consortium. In particular, the complaint argued that SPOs were not frequently applied for when requested by the victim or an ISAC (Suzy Lamplugh Trust, 2022). More recently, the Suzy Lamplugh Trust (2023) reported in 2023 that SPOs were still not often applied for, indicating that the trend in increasing SPOs is gradual or may have plateaued.

Moreover, the results corroborate the findings of the Home Office and HM Courts and Tribunals Service (2023b) review of SPOs. The review found that a disproportionate number of SPOs had been issued by the Met and Sussex Police forces, with some forces obtaining very few orders (Home Office and HM Courts and Tribunals Service, 2023b). The number of SPOs obtained by Sussex Police is especially significant, as Sussex has approximately a fifth of the population covered by the Met (Office for National Statistics, 2025).

Unpublished research on SPOs within Cheshire Police further elaborated on this, finding that implementation of SPOs had been left to the initiative of individual forces, which partially explains the disparity in SPOs between forces (Thomason, 2022). An apparent North and South divide in the use of SPOs was also observed. However, Thomason (2022) concluded that this was due to the disproportionate number of SPOs used by the Met and Sussex Police forces. Nevertheless, this study shows that Kent and Surrey Police consistently represented a

more significant rate of SPOs than the Met when taking force population and stalking incidents into account. By integrating these factors, the study offers a more comprehensive perspective of SPOs than previous research. It reveals that while the number of SPOs used in the Met is the highest of all forces, the difference is less indicative of exceptional practice than it first appears.

Furthermore, the study also provides an alternative viewpoint to official reports, challenging the conclusions of the Home Office and HM Courts and Tribunals Service (2023b). While their review presented the number of SPOs granted (436 between January 2020 and 2021) as a ‘good total figure’, this study takes a more critical approach. Regarding the rate of SPOs granted per 10,000 stalking incidents, evidence suggests that SPOs are not being used in many stalking cases. For example, despite Surrey Police having the highest rate of SPOs per 10,000 incidents (306), this is still a comparatively small number, especially considering the overall prevalence of stalking. This was recently acknowledged in a report on the Met’s response to stalking, which found that SPOs were obtained in only 1.3% (2021) and 1.4% (2022) of recorded stalking offences (MOPAC, 2024).

Further research shows that the low use of SPOs persisted into 2023, reinforcing the trends observed in the study’s findings. Using data from His Majesty’s Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) and the Home Office, the report addressing the stalking super-complaint calculated the rate of interim and full SPOs granted in the year ending March 2023.<sup>41</sup> Based on these figures, only 19.4 interim and 26 full SPO applications were granted per 10,000 stalking offences, showing that the use of SPOs remains low across England and Wales (HM Inspectorate of Constabulary *et al.*, 2024).

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<sup>41</sup> The report excluded data from the British Transport Police and interim SPO figures from Kent and Wiltshire Police due to missing data and issues with the data quality. The report cautioned that SPO grant rates may be inflated in forces that under-record stalking offences (HM Inspectorate of Constabulary *et al.*, 2024).

Although the report did not calculate the overall SPO grant rate for each force, the findings largely mirrored this study's results, showing that Surrey, Sussex, Kent, the Met and Cumbria Police had the highest rates of SPOs. This suggests that differences between forces' use of SPOs have remained consistent. However, as the British Transport Police and Wiltshire Police were excluded from the report, it is impossible to determine whether these forces would have also presented high SPO rates, as shown in this study. As a result, this study reinforces existing research on SPOs, showing a nationwide trend of low use since their introduction. Additionally, the study makes new contributions by showing that this trend is also present in the British Transport Police and the Ministry of Defence Police, which have been overlooked in previous reports.

### **SPOs and other protective measures**

Other protective measures used to police stalking, such as restraining and non-molestation orders (NMOs), are also being utilised much more frequently than SPOs. Although this could be partly explained by the fact that SPOs were only recently introduced, there is a considerable disparity between the use of SPOs and other measures. For instance, the number of NMOs is significantly higher, with 36,952 NMOs used as domestic violence remedies in 2020 *alone* (Ministry of Justice, 2023). Even when filtered down for application to stalking cases specifically, measures such as restraining orders far outweigh SPO grants, with 941 orders issued after the conviction for stalking offences in 2017 (Bates and Hester, 2020) against 1,769 SPOs in *three years*. This is surprising as restraining orders and NMOs apply only to specific conditions or investigations. In contrast, SPOs can be applied to all types of stalking at any point during an investigation. Therefore, it seems reasonable to conclude that, despite their significant aspirations, SPOs are contributing very little to the police's ability to tackle stalking due to a lack of use by the police and the courts. This conclusion was also

reached by most interview participants, who strongly felt that SPOs are rarely used by the police, especially in comparison to pre-existing protective measures. I further elaborate on these findings in **Chapter 5**.

The police have also received criticism for underusing other protective measures. Responding to the super-complaint on police use of protective measures in cases involving violence against women and girls, a report found that the use of measures such as Domestic Violence Notices and Protective Orders (DVPNs and DVPOs) was low (HM Inspectorate of Constabulary *et al.*, 2022). While the report acknowledged that DVPNs/DVPOs are only applicable in specific cases where there has been a threat or use of violence, DVPNs were only authorised in 1 in 100 domestic abuse crimes in 2018/19. Nonetheless, this figure is still significantly higher than SPOs, which suggests that SPOs are applied for, on average, considerably *less* than 1 in 100 stalking incidents. The super-complaint also suggested that police were sometimes failing to apply for restraining orders, a conclusion that was also drawn in the report on the police and CPS response to stalking (Her Majesty's Inspectorate of Constabulary and Her Majesty's Crown Prosecution Service Inspectorate, 2017).

Like SPOs, the super-complaint identified that police use of DVPNs/DVPOs was inconsistent between forces. The number of DVPNs/DVPOs used varied widely, ranging from 2 DVPNs and 2 DVPOs per 1,000 domestic abuse flagged crimes in Hertfordshire to 28 DVPNs per 1,000 in Surrey and 25 DVPOs per 1,000 in North Yorkshire. According to the fieldwork carried out among 37 forces, more than half of the officers, many of whom were from forces with low numbers of DVPNs, found DVPNs time-consuming, complex, and bureaucratic. However, in forces where the use of DVPNs/DVPOs was high, DVPNs/DVPOs were widely understood and adopted in processes with the support of an in-force legal team.

The interview findings indicate that these factors also significantly influenced the use of SPOs between forces. As I explained in the section on the SPO process, many forces lack in-house legal departments to assist in SPO applications, a resource that many practitioners described as a significant benefit in applying for SPOs. Furthermore, the vast majority of practitioners also described the SPO application process as time-consuming, complex and bureaucratic, strongly indicating that this poses a significant barrier to implementing SPOs more widely. Interestingly, despite reporting similar issues, the number of DVPNs/DVPOs and SPOs granted in individual forces differed significantly. For instance, forces highlighted for good practice in using DVPNs/DVPOs, such as North Wales, South Yorkshire and Humberside Police, presented much lower rates of SPOs than other forces. The opposite was also true, with forces such as the Met and Kent showing considerably lower rates for DVPNs/DVPOs compared to other forces, despite representing a significant proportion of SPOs. These differences in individual forces' use of DVPNs/DVPOs and SPOs indicate that there are other specific factors impacting forces' implementation of SPOs. I expand on the possible reasons for the low and inconsistent use of SPOs below and in the next chapter.

Notably, the number of SPO breaches is relatively low compared to other protective measures for stalking. A basic comparison of SPO court grants and breaches shows 1,769 grants against 313 breaches.<sup>42</sup> These are much better figures than those reported for restraining orders by Paladin in their response to the Home Office's consultation on SPOs (Chalk and Graham, 2016). According to Paladin, 42% of offenders convicted and subject to a restraining order had gone on to re-offend, forming the basis of their primary concern that SPOs would not deter perpetrators. However, this has not yet been realised, with SPO breaches making up only 17.7% of SPOs granted.

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<sup>42</sup> Nonetheless, it is important to recognise that this is not a perfect comparison given that the figure for breaches may account for the same order or multiple orders relating to the same respondent.

Does the comparatively lower number of breaches mean that SPOs are more effective as *preventive* orders, curbing further stalking offences? The practitioner interviews strongly suggest that this is the case, with several participants reporting that SPOs could effectively prevent further stalking offences. Many practitioners indicated that the five-year prison penalty for breaching SPOs effectively prevented further offences by physically incapacitating respondents, rather than serving as a deterrent. However, as I explain in the section below, some practitioners felt that the overall management and enforcement of SPOs and breaches was poor, suggesting that the statistics on breaches may reflect under-reporting by police.

Although the statutory guidance on SPOs specifies that orders are not alternatives to prosecution, campaigners feared that SPOs could follow DVPOs in being used instead of prosecution (CPS, 2017; Townsend, 2020; Bates and Hester, 2020). This would be detrimental as criminal charges carry higher penalties than orders and can protect victims for longer, such as up to 10 years imprisonment for stalking involving fear of violence or serious alarm and distress. However, there is no evidence to suggest that charges for SPO breaches or wider SPO use are *currently* overtaking stalking prosecutions as feared by Paladin and other campaigners (Townsend, 2020).

Compared to the number of SPO breaches, the proceedings and convictions for stalking are significantly higher, with 2,600 proceedings and 1,858 convictions recorded between 2020 and 2022 (Ministry of Justice, 2025). Recent data published on stalking shows that this has not changed, with 369 proceedings and 242 convictions for breaching an interim or full SPO recorded against 4,575 stalking proceedings and 1,794 convictions in 2024 (Ministry of Justice, 2025). Based on these statistics, it is unlikely that enforcement of SPO breaches will overtake stalking prosecutions in the near future. However, as I explain in **Chapter 6**, this remains a possibility which has concerning implications for victim protection and the

significance of traditional criminal law. Moreover, it should be noted that stalking prosecutions themselves only relate to a small number of reported stalking crimes, with a staggering 135,156 stalking offences recorded by police in the year ending 2024 (Office for National Statistics, 2025).<sup>43</sup>

### **Interim SPOs and breaches**

Looking more specifically at trends within the data, I noted that more interim SPOs were granted than full orders between 2020 and 2022. Accordingly, interim SPOs also represented the majority of SPO breaches. These results align with the Home Office and HM Courts and Tribunals Service's (2023a) findings on SPO grants, showing that the higher rate of interim SPOs than full SPOs has persisted since December 2021. Notably, the recent report on the stalking super-complaint found that more full orders were granted (304 against 227) in the year ending March 2023 (HM Inspectorate of Constabulary *et al.*, 2024). However, until more data is published on SPOs, it is difficult to determine whether this is a short-term or long-term trend.

Considering that interim SPOs are intended to facilitate a 'speedier process' where there is an immediate risk of harm (Home Office, 2024c), it could be argued that this represents a high prevalence of high-risk stalking cases. However, the qualitative analysis for this study suggests that interim SPOs are only sometimes used for this purpose or, at least, fail to act in this way. According to the interview participants, interim SPOs are often subject to the same delays as a full SPO, both submitted simultaneously in a single application. These findings support previous research by the National Stalking Helpline which suggests the same, with

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<sup>43</sup> Changes in the recording rules in May 2023 removed the requirement to record two crimes reported at the same time involving the same perpetrator, when one of them was a conduct crime (Office for National Statistics, 2025). The Office for National Statistics (2025) suggest that this may have led to a greater focus on identifying 'more affecting crimes'.

one client reporting a delay of nine months for an interim SPO to be granted from the date that an advocate requested it (Suzy Lamplugh Trust, 2021b).

The practitioner interviews for this study show that interim SPOs are more likely to be used as a temporary measure until a full order is submitted or determined. While this is an appropriate use of interim SPOs according to statutory guidance (Home Office, 2024c), it may also indicate difficulties with meeting the standard of proof accepted for a full order. For example, until the change in May 2024, interim SPOs were ‘likely’ to accept the civil standard of proof (balance of probabilities), whereas full SPO applications accepted the criminal standard of proof (beyond reasonable doubt). Interim SPOs are also considered based on whether it is ‘appropriate to do so’, whereas full SPOs must be ‘necessary to protect another person’. Accordingly, interim SPOs may have been granted more often than full orders due to difficulties obtaining sufficient evidence for a full SPO. This is something that the practitioners also discussed; in fact, many reported that the standard of proof accepted for a full SPO was a hindrance in terms of time and effort. I expand on these issues in **Chapter 5**.

Evidence indicates that these results should be interpreted with caution. As noted by the Suzy Lamplugh Trust (2021a) and the Home Office and HM Courts and Tribunals Service (2023b) in their review, the recorded number of breaches may not accurately reflect the true scale of breaches in practice. Evidence from interviews with advocates and victim support practitioners strongly indicates that this is the case, highlighting instances in which police did not respond to reports of SPO breaches within good time. Similar findings were also included in the stalking super-complaint report, which stated that 164 out of 470 stalking and protective order breach investigations were ‘not good enough’ (HM Inspectorate of Constabulary *et al.*, 2024). This may indicate that recorded breaches are more reflective of police not responding to SPO breaches appropriately or promptly. This issue was prevalent before SPOs were introduced, with stalking practitioners reporting a lack of, or delay in,

action taken by the police in response to breaches of restraining orders and civil injunctions (Home Office, 2012; HM Inspectorate of Constabulary and Her Majesty's Crown Prosecution Service Inspectorate, 2017). More broadly, the police have also been criticised for inaction in the handling of domestic abuse and violence against women and girls cases overall, implying that this is a significant and ongoing issue in the policing of domestic abuse and stalking (HMICFRS, 2017; HM Inspectorate of Constabulary *et al.*, 2022).

A reluctance to report stalking to police may also have affected the SPO breach statistics. Stalking victims often experience an average of 100 incidents before they report stalking to the police (CPS, 2020). This reluctance may also manifest in incidents where SPOs are breached, because victims fear not being believed or police inaction. During the practitioner interviews, many participants, especially advocates, discussed victims no longer reporting SPO breaches due to inaction or not being taken seriously by the police. Accordingly, the actual number of breaches occurring may not be reflected in the official statistics, thus obscuring the actual 'preventiveness' of SPOs.

Despite this, it should be acknowledged that increases in the breach statistics may not necessarily correlate with effective stalking prevention. For example, the CPS recorded 12,122 prosecutions for restraining order breaches commenced in 2014-15, representing a rise of 1,587 offences (CPS, 2015). While this was a significant increase in convictions, research showed that restraining orders were still failing to prevent stalkers from reoffending or to protect victims (Home Office, 2015). This failure was one of the main reasons why SPOs were proposed: as a stronger and more immediate measure of protection for victims.

### **Possible reasons for low SPO use**

How can the low use of SPOs by the criminal justice system be explained? Although the statistics on SPOs do not provide the full context behind this trend, insights from practitioner interviews offer additional evidence supporting some explanations found in existing research. For example, both the super-complaint and the subsequent report on the police response to stalking (Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary *et al.*, 2024) and interview participants voiced concerns that police officers were not identifying stalking in the initial stages of an investigation, thus highlighting a missed opportunity to protect the victim appropriately.

The study also found evidence that even in cases where stalking was identified, frontline officers were often unaware that SPOs existed or, where SPOs were requested, outright refused to apply for them. Instead, officers either advocated for or pursued other orders or conditions. These were either inappropriate, for example, if they were used for stranger or non-domestic stalking cases yet were designed for intimate partner relationships (e.g. NMOs, DVPNS and DVPOs) or provided fewer protections for victims than SPOs, such as bail conditions. This issue was also reported by the Suzy Lamplugh Trust (2022) and HM Inspectorate of Constabulary *et al.* (2024), indicating that it remains a significant and ongoing problem.

This issue was not restricted to the police. The practitioner interviews also revealed that there was frequently a lack of understanding and knowledge of SPOs in the courts. According to the participants, judges frequently opted for orders they were more familiar with, such as restraining orders. Moreover, judges were often unwilling to grant SPOs in cases where other pre-existing protective measures were in place, unaware of the additional protections that SPOs could provide. This presents a serious hindrance to the successful application of SPOs by the police and courts and is likely to be a significant factor in the low use of SPOs.

Practical issues associated with the SPO process are also probably a factor in their low uptake. Multiple sources describe the process as inflexible and time-consuming (Suzy Lamplugh Trust, 2021c; Suzy Lamplugh Trust, 2021b; Thomason, 2022; Home Office and HM Courts and Tribunals Service, 2023b; HM Inspectorate of Constabulary *et al.*, 2024).<sup>44</sup> For example, Cheshire Police's study found that the process of applying for SPOs was often described as 'slow and bureaucratic' by survey participants (Thomason, 2022, p.7). This is also the case with interim SPOs, as research indicates that interim orders are subject to the same slow process and delays (Suzy Lamplugh Trust, 2021b; Thomason, 2022; HM Inspectorate of Constabulary *et al.*, 2024), despite being designed as part of a 'speedier process' (Home Office, 2024c). Insight from interview participants in the present study further lent evidence to these difficulties, strongly suggesting that officers perceived difficulties in attaining SPOs discouraged them from even considering them. This is an important point that I discuss further in the next chapter.

Another issue that is likely to have contributed to the low implementation of SPOs is the accepted standard of proof. While the Home Office and HM Courts and Tribunals Service (2023b) claimed that the criminal standard of proof for the full SPO was not a barrier to granting SPOs, there is considerably more evidence to suggest otherwise. Existing research strongly suggests that police find it difficult to meet the legal threshold accepted for SPOs, especially the criminal standard of proof (Thomason, 2022; Suzy Lamplugh Trust, 2023; HM Inspectorate of Constabulary *et al.*, 2024). As aptly summarised by Thomason (2022), this means that 'the courts are less likely to grant, and therefore the police are less likely to apply for' SPOs (p.18).

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<sup>44</sup> See **Chapter 5** for a discussion of practical issues involving the SPO process based on practitioner interviews.

Findings from practitioner interviews also indicate that many police officers are discouraged from applying for an SPO or bringing one to court due to the difficulties in meeting the standard of proof, reinforcing existing research that identifies this as a significant barrier to SPO applications. Revealingly, the government updated the statutory guidance in 2024 so that evidence meeting the lower civil standard of proof can be accepted for both an interim and a full order (Home Office and Farris, 2024). It remains to be seen whether this will make a significant difference to the willingness of police to invest the necessary time and resources in applying for SPOs.

The changes to the legal threshold may not be enough to increase SPO applications. Whereas the statutory guidance for SPOs instructs police officers to apply the civil standard of proof to interim and full SPOs, the guidance only states that it ‘will *likely* be accepted by the courts.’ Although applying the civil standard of proof should help the police to make SPO applications in a greater range of cases, it is concerning that there is no guarantee that the courts will accept it in practice. Given the courts' lack of knowledge about and resistance to SPOs, the courts may knowingly or unknowingly demand the criminal standard of proof for full SPOs regardless of the updated statutory guidance. Moreover, judges may still prefer to use protective measures that they are more familiar with, regardless of the changes to the legal threshold accepted for a full SPO. However, more research is needed to determine if this is the case. I now set out my recommendations for further research and policy in the chapter overview below.

## Chapter overview

### Summary

Based on the FOI data presented by the police, HMCTS and the CPS, the use of SPOs by the police and courts is generally low in England and Wales, regardless of population or stalking prevalence. An analysis of official statistics on SPOs also supports this finding, showing that the majority of forces are not performing in proportion to the rate of stalking locally or nationally. However, numbers are increasing each year, albeit gradually. Nevertheless, pre-existing protective measures, such as restraining orders, NMOs and DVPOs, are being issued more frequently than SPOs, showing that SPOs do not act as a major intervention in cases of stalking.

Despite the low numbers of SPOs issued nationwide, some forces are issuing considerably more SPO applications than others, with Sussex, Kent, Surrey and British Transport Police consistently showing high rates of SPOs. The practitioner interviews suggest that differences in how forces apply SPOs, including a lack of resources, such as dedicated SPO SPOCs and in-house legal services, could have an impact.

In addition, the findings revealed a steady increase in the number of SPO breaches. While the number of SPO breaches is significant, a comparison of breaches and court grants indicates that there are significantly fewer breaches of SPOs than of pre-existing orders for stalking. More than half of SPO breaches were for interim SPOs, possibly suggesting that interim SPOs represent more high-risk stalking. However, the practitioner interviews indicate that this could equally be due to the prevalence of interim SPOs granted, supporting findings reported in existing research.

I now discuss how these findings can be developed in future research and policy.

## Recommendations

An immediate recommendation for future research on SPOs is for the Home Office or national policing leads to generate a nationally consistent method of collecting data on SPOs. This could be achieved by creating a uniform procedure to collect SPO data. A collection of SPO data would be hugely beneficial as it would allow information on the total amount of SPOs used by the police and courts, and how they contribute to the policing of stalking, to be more easily scrutinised and tracked. This data could help to evaluate the effectiveness of SPOs in protecting stalking victims and in preventing stalking from becoming more entrenched. Another advantage of collecting SPO data is that it would allow the Home Office to challenge forces that infrequently utilise SPOs, which in turn could prompt forces to adopt better practice in using SPOs to police stalking.

While this may be difficult to achieve, due to the different procedures that police forces use, this issue could be tackled by standardising the procedures for SPO applications nationwide, thus keeping the data homogeneous. However, as the practitioner interviews made clear, this would require resourcing that not all forces currently have, as some forces lack specific SPO SPOCs or an in-house legal service. Alternatively, a better solution may be to collect data on standardised and distinguishable categories such as SPO applications and court grants that most – if not all – forces should be able to provide. To facilitate the process, SPO data could be added to the Home Office Annual Data Requirement (ADR), a list of data that the Home Office requests annually from all forces in England and Wales, such as on crime, arrests and ‘stop and search’.

The study’s findings also support existing recommendations to establish a data-collection system for other civil orders. For example, multiple reports on preventive measures (JUSTICE, 2023) and the use of them in cases involving women and girls (HM Inspectorate of Constabulary *et al.*, 2022) have pointed out that no system exists to measure and gather

data on protective measures, including SPOs (HM Inspectorate of Constabulary *et al.*, 2024). This could be resolved by submitting data on civil preventive orders and notices to the central government on an annual basis, such as the ADR, thereby compelling police to record and maintain data on their use (Rodgers, 2023). This could provide an indication of whether protective measures are successfully protecting victims of crime and identify areas or forces that require improvements in their use.

Another recommendation is that both police and court staff be trained in applying for SPOs. As I discuss in more detail in **Chapter 5**, while some forces or areas are more knowledgeable about SPOs and how to apply them, many police and legal practitioners have received no training on SPOs. This aligns with existing research on SPOs (Home Office and HM Courts and Tribunals Service, 2023b; HM Inspectorate of Constabulary *et al.*, 2024), which indicates a nationwide lack of consistent training on SPOs. Although there is statutory guidance on SPOs for police (Home Office, 2024c) and resources available online on SPOs (NPCC and College of Policing, 2023), several participants described ‘learning on the job’ and identified a need to ‘upskill’ the police and courts. Even in cases where mandatory training on SPOs was described, one advocate (P14) felt that training could be prone to ‘trends’, as considerable effort is put into training when new measures are introduced, but subsequently tapers off, and mandatory briefings would then only be held online after the initial in-person training session. As a result, they argued that there should be more in-person training, presumably to increase engagement and efficiency. A helpful way of implementing training could involve higher-performing forces sharing examples of good practice or mentor forces with lower rates of SPOs.

Future research could include further investigation into the use of SPOs and the prevalence of stalking. Although the official review of SPOs (Home Office and HM Courts and Tribunals Service, 2023b) presents their use as ‘promising’, evidence from this study supports existing

research indicating that the use of SPOs is considerably low, especially regarding the number of stalking offences (Suzy Lamplugh Trust, 2022). This is further compounded by the lowered legal threshold accepted by full SPOs (Home Office and Farris, 2024), suggesting that, contrary to the review's claims, this was a significant barrier to SPO applications before the change. Therefore, future research on SPOs should consider conducting more in-depth longitudinal qualitative investigations using specific stalking cases to gauge the overall 'effectiveness' of SPOs.

Examining the study's findings would also be interesting in light of the introduction of the Domestic Abuse Protection Notice/Order (DAPN/DAPO). Like SPOs, DAPOs contain prohibitions and positive requirements and carry a maximum penalty of five years imprisonment for breaching the order, replacing the existing DVPNs/DVPOs (Home Office, 2024a). As several interview participants acknowledged, DAPOs will potentially crossover with SPOs significantly, covering all forms of domestic abuse, which can include stalking and harassment (Home Office, 2024a). At the time of writing, DAPNs/DAPOs are being piloted in some forces across England and Wales for a predicted two-year period (Home Office, 2024b). Thus, this study's findings will have significant implications for the future implementation of DAPOs, including considerations about whether the criminal standard of proof will hinder their use.

### **Limitations**

As the findings are primarily based on FOI data, there were several limitations on what the data could show. Firstly, some forces did not provide data for either of the FOI requests, meaning that the sample is neither complete nor fully covers the period from January 2020 to December 2022. Moreover, there is missing data due to forces not answering all the questions

contained in the requests, especially in regard to the statistics on interim and full SPO applications and applications authorised by a superintendent. Consequently, the data available for different variables (SPO applications, court grants, etc.) varied, meaning that secondary sources was required to supply data on missing forces.

Thirdly, forces interpreted the FOI request questions differently. The most prominent example of this was the FOI responses on stalking and cyber-dependent ‘incidents’, wherein multiple forces gave statistics on ‘crimes’ instead of ‘incidents’. As a result, the data is inconsistent and likely to come from multiple sources. Furthermore, the data may contain errors, as statistics were often taken from systems that were subject to change and not checked as rigorously as official statistics.

The same limitations applied to the secondary statistics sources. The official statistics for SPOs were subject to the same data caveats as the FOI requests, having been sourced from the same databases.<sup>45</sup> The only exception was the SPO application data, which was taken from Local Criminal Justice Boards (LCJBs) within the management information for SPOs (Home Office and HM Courts and Tribunals Service, 2023a). This meant that while the secondary statistics could provide data on variables that were missing from the FOI findings, they still varied substantially from the FOI data. Nevertheless, the potential for errors between the official statistics and the FOI data is likely to be minor. Different datasets also proved to be advantageous, as possible errors and outliers could be identified (at least until December 2021). As quantitative data on SPOs is unavailable from other sources, excluding official statistics, the results still provide one of the most accurate and detailed datasets on SPOs. Therefore, the risk of errors is acceptable.

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<sup>45</sup> Data on SPO court grants/issues and breaches were taken from the LIBRA MIS database and CJS Offence Codes for both FOI requests and official statistics (Home Office and HM Courts and Tribunals Service, 2023a).

## **Conclusion**

SPOs are inconsistently implemented across forces and courts in England and Wales. While some forces used significantly more SPOs than others, the rate of SPOs compared to stalking incidents remains incredibly low. Consequently, SPOs are currently making a negligible contribution to the policing of stalking, performing well below the expectations of policymakers and campaigners. Data from the practitioner interviews suggested reasons for these trends, including a widespread lack of awareness of SPOs and a complex and time-consuming application process.

I expand on these findings in the next chapter, presenting insights from the qualitative practitioner interviews to explain specific trends in relation to SPO applications, court grants and breaches. According to the practitioner interviews, while SPOs are viewed as a powerful and useful tool in protecting stalking victims, several barriers prevent SPOs from being implemented more frequently.

## **Chapter 5: In what respects do SPOs work well, and what could be improved?**

### **Introduction**

SPOs were introduced to cover specific gaps in the policing of stalking, including the lack of protective measures available for victims of non-intimate stalking (Home Office, 2015; Home Office and HM Courts and Tribunals Service, 2023b). SPOs also allow for early police intervention in stalking cases, even if the evidence threshold for a stalking prosecution has not yet been met, thus protecting victims from potential escalation and violence. The aspiration behind this was to address some of the consistent criticism of the policing of stalking, including inaction, victim-blaming, and not taking victims seriously (Dunn, 2002; Korkodeilou, 2016; Worsley *et al.*, 2017; Taylor-Dunn *et al.*, 2018; Taylor-Dunn and Erol, 2023).

The introduction of SPOs and, in particular, their ability to impose positive requirements on suspects to adopt protective behaviours has been greeted with optimism from the stalking sector, with the Stalking Consortium calling it a ‘welcome and much-needed change for victims’ (Home Office and HM Courts and Tribunals Service, 2023b). As opposed to the typical prohibitions that *restrict* perpetrators from taking a specific action, positive requirements oblige perpetrators to take a particular action. This can include attendance at stalking and/or substance abuse programmes and thus can potentially aid in rehabilitating perpetrators or reducing triggers and risks.

However, five years after SPOs came into operation, researchers and practitioners have already identified challenges to their implementation. In particular, the National Stalking Consortium and stalking super-complaint reported low use of SPOs and delays in processing, with some orders taking up to nine months to be put in place from the date of application

(Suzy Lamplugh Trust, 2022; Home Office and HM Courts and Tribunals Service, 2023b; HM Inspectorate of Constabulary *et al.*, 2024). While these issues were initially acknowledged in the 2023 Home Office review on SPOs (Home Office and HM Courts and Tribunals Service, 2023b), their severity was not appreciated until the super-complaint report was published in 2024 (HM Inspectorate of Constabulary *et al.*, 2024).

This chapter provides a more in-depth perspective on the perceived effectiveness of SPOs and the challenges to their implementation, drawing on insights from a broad range of practitioners involved in preventing and responding to stalking. As described in the methodology section, interviews with 17 participants from the police, legal, stalking, and/or domestic abuse advocacy and victim support services provided insights into how the introduction of SPOs contributes to the police's ability to tackle stalking, and what the challenges are to their implementation.

The findings I present in this chapter suggest that SPOs can be potent and effective tools in tackling stalking if police, legal departments, and courts are persistent in applying for SPOs and enforcing them appropriately. Based on practitioner views, the most compelling advantages of SPOs are their potential to provide strong protection to stalking victims through the creative use of conditions and the close management of suspects. Nonetheless, the practitioners suggested that several barriers limit the potential of SPOs in policing stalking. I explore key explanations for low SPO use, including the high standard of proof accepted for an order, the time-consuming application process, the lack of knowledge and awareness of SPOs among the police and in the courts, and insufficient training for all criminal justice practitioners. I also present findings that indicate that SPO applications and stalking prosecutions are clashing due to overlaps in the evidence required and court hearings being held at the same time.

## Safeguarding and protecting stalking victims and the public

As would be expected of a protective order, the potential of SPOs to safeguard stalking victims was the most prevalent theme or ‘benefit’ specified by the practitioners. For example, one victim support practitioner (P8) stated: ‘From the charity's point of view, the Stalking Protection Order for us is the most efficient way of protecting ... our clients’. Similar comments were made by an advocate (P10) and legal practitioner (P12), both of whom described SPOs as the ‘best’ and ‘strongest’ type of protection offered for stalking victims. Even those practitioners who did not go so far as to call SPOs the ‘best’ protection against stalking all agreed that SPOs *could* provide vital protection for victims.

For these practitioners, SPOs were far more effective in achieving protection for victims than pre-existing protective measures such as non-molestation orders (NMOs) and restraining orders. In the following excerpt, an advocate (P10) described why SPOs represented a better alternative to NMOs:

So, we always look at whether someone would be eligible for a Stalking Protection Order because a lot of the time, what the police say is for people to get a non-molestation order. And that's because SPOs are so new. So, they'll say a non-molestation order, but the non-molestation order for a stalking victim is not going to be as effective because [stalking is a] continued pattern of behaviour. It's the covert stuff that happens. It's the online stuff as well.

Unlike NMOs, SPOs can include a range of prohibitions and positive requirements.

According to practitioners, this significantly aided in protecting victims, as more specific conditions could be added to extend the protective reach of SPOs to victims’ family members and intimate partners:

The Stalking Protection Order doesn't just protect the victim; it can protect the victim's family, or it can protect a victim's partner if the stalking is being aimed at them, which typically it is. It can have these really, really beneficial sides to it when more people are being protected by this order. And actually, it means that [the SPO] can stop that from happening or if they try to do it, they're still in breach of that order because the [non-molestation order] says no direct or indirect contact, but that is very hazy as to what is a breach.

With [an SPO], it's just a little bit more rigid in what can be offered. (P10, advocate)

The inclusion of a criminal penalty for breaching an SPO also made SPOs appear more favourable than other measures from the practitioners' perspective. For example, one advocate (P15) explained how the penalty for breaching an SPO could better safeguard victims against future harm than bail conditions:

Bail conditions are just a buffer. If anything, you know it's a little bit hopeful. Well, let's hope the offender sticks to the conditions. It's very rare that they're going to remand if they breach a bail, unless it's a serious assault and [then] it's too late, whereas as soon as you've got that SPO in, the immediate breach of an SPO is a criminal offence.

The elements of SPOs most often identified as key in safeguarding and protecting victims and the public were 'relationship' requirements and the possibility of an interim order. The findings on relationship requirements and interim SPOs and how they improved victim safeguarding are discussed below.

### **Relationship requirements**

One feature of SPOs that practitioners identified as effective in safeguarding victims was the use of relationship requirements. Relationship requirements are one of many notification requirements that legally require respondents to provide police with useful information for evaluating and monitoring risk, specifically by notifying the police of any new intimate relationships they form. For many practitioners, the relationship requirement ultimately safeguards stalking victims in two ways: first, by informing stalking victims and people in relationships with stalkers of their partner's criminal history (with or without a Domestic Violence Disclosure Scheme); and second, by evidencing serial stalking. For example, one police practitioner (P6) explained that 'depending on the prohibitions we've asked for, so we've asked for [the respondent] to provide us details of any new relationships, friendships'.

Many practitioners were very enthusiastic about SPOs' ability to protect current and potential stalking victims in the future with relationship requirements, as a legal practitioner (P16) explained:

And I feel like we are protecting these victims and then possible future victims because you can put in various prohibitions or requirements. So, they'd have to tell you of any future relationships that they're going to develop.

Other practitioners agreed with this view, stressing how SPOs could prevent escalation or further victimisation:

Someone might be under investigation for stalking victim A, but if there's no prevention that is in place, they might go and then stalk victim B. Whereas if they're subject to an order, I think that that is a good thing, and I think you can hopefully prevent any escalation happening or, alternatively, another offence with a different victim. (P3, police practitioner)

One way in which the requirement could prevent escalation or victimisation of other victims was by evidencing serial stalking. One police practitioner (P4) described using the requirement to evidence serial stalking if the respondent potentially reoffended. They felt that this was especially beneficial for the safeguarding of victims, as police 'can safeguard that person by telling them about the [respondent's] offending history'.

Another police practitioner (P2) explained how SPOs benefited cases such as serial stalking:

The actual cases themselves are really diverse - the nature of them, even amongst the same typology. So even amongst rejected stalkers, the circumstances of those cases are relatively unique, which I think is one of the strengths of the Stalking Protection Order, as it allows us to tailor the external controls to that individual case. So, I think that's something that we've noticed locally and has been tactically very useful in managing the risk, creating opportunities for us to intervene that otherwise wouldn't have existed. That ability to check communications devices and things like that has been very useful. And undoubtedly, it's not only detected crimes, but it's also prevented them by helping identify future victims.

Evidencing serial stalking also helps police to identify and manage dangerous and serial stalkers, which could lead to respondents being risk assessed and monitored through multi-agency risk assessment conferences (MARACs) and/or Multi-Agency Public Protection

Arrangements (MAPPA). As explained in **Chapter 4**, MARACs are meetings at which information on high-risk domestic abuse cases and/or stalking is shared between representatives from sectors such as the local police, probation services, health, child protection, housing practitioners and independent domestic violence advocates. Meanwhile, MAPPA involves police, the prison service, probation and other statutory bodies in order to assess and monitor the risk posed by violent and serious offenders. People who have been cautioned, convicted, or warned about an offence that indicates they pose a serious risk of harm to the public can also be managed under MAPPA. However, the extent to which SPOs facilitate this is unknown, as research suggests that MAPPA is used infrequently and not very effectively in the policing of stalking and domestic abuse (Hadjimatheou and Hamid, 2024).

However, as opposed to evidencing serial stalking, more practitioners reported using the requirement as a way of providing police with the information they need to identify new potential victims of stalking and warn them of the risk they face by sharing information with them about the suspect's criminal history. Under the Domestic Violence Disclosure Scheme (DVDS), police can proactively inform people at risk of domestic abuse of their partner's police history of abuse or stalking, as a means of helping them make more informed decisions about their relationship. Suspects are not informed of the disclosure, which is made to the person at risk in a confidential setting, and is accompanied by safety advice and signposting to support from specialist agencies. It is unsurprising that police are using this power to warn the partners of stalking offenders, because there is a strong link between stalking and domestic abuse (Stark, 2007; Melton, 2007; Norris *et al.*, 2011; Monckton Smith *et al.*, 2017; Woodlock, 2017; Home Office, 2018; CPS, 2020; Todd *et al.*, 2021). Relationship requirements represent a useful addition because they alert police to an opportunity to try to inform potential future victims and thereby protect them from harm.

Notably, with regard to these requirements, there is also an implicit expectation that domestic stalkers will re-offend with other victims, and that SPOs should therefore be tailored to disrupt serial offending rather than merely to end offending against a standalone victim.

Although data on the prevalence of serial stalking is scarce, some studies indicate that serial offending is prevalent (Richards, 2004; Petherick, 2009), which is also strongly supported by the findings of the current study.

### **The potential for expedited protection for victims through interim orders**

Practitioners also pointed to interim SPOs as a powerful safeguarding aspect of SPOs. Interim SPOs are temporary orders (including prohibitions and positive requirements) intended for high-risk cases or cases where a full SPO has not (yet) been granted. Applications for interim SPOs are made alongside full orders, meaning that interim SPOs can be granted in the first court hearing for a full SPO. Unlike full SPOs, interim SPOs can only be active for a specified amount of time and cease to have effect once the full application is determined.

In the view of many practitioners, interim SPOs safeguarded victims much more effectively than similar protective measures. One advocate (P10) compared the process for obtaining NMOs to that for interim SPOs as an example:

Having an interim [order] put in place while they look at the full order is such a positive thing because it means that they're not like with a [non-molestation order] if they walk in there and it's not granted *ex parte* – so as an emergency order – they then have to go back to court with no protections with the perpetrator present to ask for that order to be granted with notice, and that already escalates the risk, whereas with the Stalking Protection Order, you can ask for that interim in the full hearing. And the interim is normally granted in the full hearing while they investigate whether the full [order can be granted] if it's being contested by the perpetrator.

This interim safeguarding function is especially important, the advocate suggests, because the risk to victims escalates during the time it takes to apply for an order to be granted. Stalking is widely recognised as a risk factor for violence and homicide (Norris *et al.*, 2011; Monckton

Smith *et al.*, 2017; Monckton Smith, 2020; Todd *et al.*, 2021). Therefore, interim SPOs could potentially protect victims from serious harm.

Practitioners were also enthusiastic about the provision for both prohibitions and positive requirements in interim SPOs. As some of them explained, many short-term and long-term protective measures do not have the wide range of conditions available in SPOs. One victim support practitioner (P7) clarified:

You can have the interim SPO as well, so imposing certain conditions, certain requirements - very similar to bail conditions if you will - upon an offender, so that we can get a victim survivor to a place of safety. For instance, it's very similar to what an occupational order<sup>46</sup> will do, for example, or Domestic Violence Protection Orders as well, where a perpetrator is removed from the home for a certain period of time, and it allows the victims to either get an occupation order in place so [the perpetrator] can't return to the residence or attend a safe refuge.

Despite being a temporary order, some participants felt that interim SPOs were just as effective at achieving protection as a full order. As one legal practitioner (P16) explained:

For us, if we get an interim in place, then it affords [the victim] the same protection, and it's the same consequences if [the respondent] breaches. So as long as we get the interim, we're quite happy with that.

Although the majority of practitioners maintained that *only* getting the interim SPO was unsatisfactory, in general, they agreed that the interim SPO could be very effective in safeguarding victims. However, participants did not describe using interim SPOs for prompt intervention in high-risk cases to prevent escalation, although this formed part of the original argument for their introduction. Although interim orders were intended as quick interventions, many practitioners found that interim SPOs took as long to be heard in court as full orders. As a result, applying for interim SPOs – and SPOs generally - was often described as a slow process: for instance, one police practitioner (P17) confirmed that it ‘just takes so

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<sup>46</sup> An occupation order is a court order that controls who can live in the family home or enter a specified area around the home. Occupation orders are often used to allow victims of domestic abuse to remain in the family home.

long to do them'. As SPO applications are submitted simultaneously for both an interim and full order, many practitioners across all sectors also found that police confused these as separate processes and thus expected interim applications to be completed more quickly. One police practitioner (P4) explained:

I think there's a real misunderstanding about interim orders. I have a lot of people thinking it's a quick and easy thing, "Oh, can I get an interim?" But you can only get an interim if you're applying for a full order [...] We've got the full application, and we were applying for the full order, but because the respondent was contesting it, then we've got to go to a full hearing so that's the point the interim comes into place, so you don't just go for an interim, you've got to be applying for the full order.

Delays in court hearings for SPO applications meant that it could take 'three to six months to even get an interim order in a lot of cases' (P9, advocate). As a result, interim SPOs were more typically used as a buffer between the hearing for a full SPO than as an immediate measure for high-risk cases. This suggests that while interim SPOs may be successful at protecting victims until the hearing for a full SPO is held, they fail to protect victims before applications are heard by the courts. As a result, victims may be exposed to a serious risk of harm if there are delays in bringing applications to court.

Concerningly, police did not even apply for interim SPOs in several cases, and a victim support practitioner (P13) discussed resistance to doing so as follows:

And it's still baffling to us why there's so much resistance in applying for that interim order, because even if it's denied by the judge - it is their role to say yes or no - [but] it is the role of the police officer to apply anyway. An interim [SPO] is something that has a really low standard of proof. We don't get it. Why is there so much resistance to that? And in the end, we see police officers [that would] rather go with police bail than with interim Stalking Protection Orders, which are for stalking cases. There's still some kind of protection, and victims are very grateful for that. But if we have a tool that is specific for stalking, why are we not using it?

While bail conditions can include some of the conditions in SPOs, unlike SPOs, breaches of police bail are not a crime, meaning that police can only arrest the respondent and then release them on bail again. This has serious implications for the safety of victims who could

be given more robust protection under interim SPOs. Practitioners generally agreed that SPOs were superior to bail conditions; indeed, one described bail as ‘toothless’ (P2, police practitioner). The same practitioner went on to explain that interim SPOs are, comparatively, ‘quite motivating to suspects in terms of helping them make better decisions to regulate their behaviour, at least whilst they are on bail, because the consequences then for them doing certain things become really serious because there's a criminal sanction’.

Similar findings were reported in the stalking super-complaint and report, where bail conditions breached repeatedly resulted in no consequences for the perpetrator and no additional protective measures for victims (Suzy Lamplugh Trust, 2022; IOPC, 2024b; HM Inspectorate of Constabulary *et al.*, 2024). Taken together with the current study’s findings, this strongly suggests that bail conditions are relatively ineffective compared to SPOs as a protective measure. Consequently, any preference for bail conditions over interim SPOs is detrimental to the safety of victims and indicates that the full safeguarding potential of interim SPOs is not being realised.

However, practitioners suggested that there were also other reasons that interim SPOs were not being used. Some regarded the standard of proof as the most significant barrier to interim SPO applications. Although interim SPOs had a lower accepted standard of proof than full orders at the time these interviews were carried out in 2023, some practitioners expressed an intention to obtain a full order from the outset:

We always try and push for a full [order] at that first initial hearing because interim [orders] can only last for a small period of time, usually until the criminal case is concluded, and usually, our bail conditions do that as well, so we're always trying to push for that full order on the initial hearing. So that's generally our goal with it. So, you would think that trying to apply for an interim: one, the burden of proof would be less. However, that's not really the case. [...] That's why I now look at things from a higher burden of proof so that we can evidence [a full SPO] at that first hearing. (P6, police practitioner).

In light of the severe delays in getting interim SPOs heard in court, this strategy is understandable, as full SPOs are likely to be granted shortly after an interim SPO is made anyway. This delay arguably renders interim SPOs largely irrelevant, as evidence suggests that they are only protecting victims until the hearing for a full SPO, which could be unnecessary, depending on how long a full SPO takes to be granted. This further shows that interim SPOs are failing to provide victims with immediate protection, leaving them vulnerable to harm during the wait for an interim or full SPO.

To tackle some of these issues, two advocates (P14 and P15) proposed implementing an emergency stalking protection notice to provide much quicker protection for victims. The stalking super-complaint report also made this recommendation, suggesting the model for Domestic Violence Protection Notices and Orders (DVPNs and DVPOs) could be used (HM Inspectorate of Constabulary *et al.*, 2024). Stalking protection notices would constitute an emergency protection notice issued by police with the authority of a superintendent or above, giving immediate protection after a stalking incident. The notice would contain prohibitions that prevent the perpetrator from approaching or contacting the victim, pending an application for an interim and full SPO being heard in a magistrates' court within 48 hours. Consequently, a notice would cover the gap between police making an SPO application and the application being heard in court. These suggestions from Participants 14 and 15, along with the super-complaint report, highlight a significant weakness on the part of interim SPOs to protect victims between an SPO application and the subsequent court hearing. However, introducing a stalking protection notice would not make interim SPOs redundant as a protective measure because the latter can remain in place for longer than a notice and can include more conditions, such as positive requirements.

Therefore, while the findings show that opportunities to use interim SPOs as a quick and short-term protective measure are limited, interim SPOs can prove to be an important tool in protecting victims before a full SPO is granted.

### **Limitations of safeguarding and protection**

Other practitioners expressed more guarded views towards the protective capabilities of SPOs. One police practitioner (P17) cautioned that although SPOs add a ‘decent layer of protection for some victims’, they were not the ‘total solution for protecting [a] victim in a stalking case’. Another victim support practitioner (P7) echoed this sentiment, explaining that SPOs and protection orders generally add ‘wiggle room for [victims] to be able to heal, to make plans and recover and to move towards safety.’ However, they acknowledged that the results can be disappointing:

[It can be] that what has been put into the protection order doesn't fully consider the narrative that the perpetrator abides by, in the sense that perpetrators will quite often use quite covert ways to continue stalking, harassment, domestic abuse and so on. And so, it's very difficult as well for some protection orders to include that nuance. And so sometimes there is a bit of disappointment.

These concerns suggest that the concerns voiced by Paladin, as well as Chalk and Graham (2016) during the consultation for SPOs (Kelly, 2020), are becoming a reality. Both argued individually that stalkers generally do not comply with court orders, as exemplified by the failure of pre-existing orders, such as restraining orders and bail conditions, to prevent stalking (Kelly, 2020). This may also point to SPOs sharing the same weaknesses as restraining orders and bail conditions in terms of preventing stalking, especially as multiple practitioners indicated that SPOs were regularly breached. However, as I discuss later in the chapter, many practitioners thought that the penalties associated with SPO breaches could

provide the most substantial protection for victims if they were proactively managed by the police.

Another stalking advocate discussed the difficulties of using SPOs as an early intervention measure for stalking (P10), pointing out that, 'A Stalking Protection Order should definitely be put in before the stalking gets too bad, but unfortunately, the stalking's already going to be at a point where it is really bad when that order is being looked at.' They added: 'We're looking at the preventative measures in the sense of when it's too late. We're not looking at why this is happening and what we can do for both victim and perpetrator.'

While SPOs were designed to be a measure to tackle stalking before stalkers' behaviour became 'entrenched' (Home Office, 2015), in fact, SPOs only act as a preventive measure *after* a report to the police is made. Given that stalking victims only report to the police after an average of 100 incidents (CPS, 2020), it is highly likely that stalking will already be entrenched by the time an SPO is applied for.

However, although practitioners indicated that SPOs have limitations in their ability to safeguard and protect victims, many felt that they functioned effectively as a tool to manage respondents. In particular, the ability to tailor conditions in individual SPOs and the criminal penalty for breaching them were regarded as essential tools in managing respondents. I discuss these findings below.

### **Management of stalkers**

Practitioners also discussed the added capacity to manage stalking perpetrators offered by SPOs, frequently distinguishing two themes associated with the management of stalkers: prevention and risk management. Regarding prevention, several practitioners pointed to the

early intervention powers of SPOs as one of the order's main strengths. As one legal practitioner (P12) explained:

[SPOs are] trying to stop stalking behaviours from escalating or from becoming more entrenched. And so, the idea is that whilst an investigation in relation to stalking might take months and months and months because there's reams and reams of material to go through, actually, you can have the Stalking Protection Order in place right at the outset and so on. If you look at it like that, then I think they are probably quite effective.

Several practitioners concurred with this view, pointing out that SPOs could prevent stalkers 'from continuing with that affixation and obsession' (P15, advocate). Another advocate (P10) explained how SPOs could manage respondents differently to restraining orders:

As it states in the guidelines, a restraining order doesn't offer that same offender management as a Stalking Protection Order does; a restraining order is just a reactive power, whereas with the SPO, you've got that built-in prevention power because you're gonna be going around and looking at the phones and things like that to prevent something. Why should we get a [restraining order], make the victim suffer before we can take proactive action against them? We suspect we need to be properly managing these people.

One police practitioner (P4) held similar views, praising the ability of SPOs to manage respondents better than other orders:

I think they're a really effective tool, and like I say, the key is that they offer that offender management which the non-mols [non-molestation orders] and the restraining orders don't. So that's the massive bonus to me. And in my view, non-mols and restraining orders are reactive powers. We've got to wait for the victim to suffer again because [the respondent] breached it by doing something before we can actually do anything about it, which doesn't really make sense to me. Whereas with SPOs, we would hope that proactive management might intervene before the victim gets affected by it, dependent on what the prohibitions and requirements say.

As I discuss in the next section, the considerable discretion afforded by SPOs to tailor prohibitions and requirements to the offending pattern and risk profile of a specific offender was considered one of their key distinctive benefits compared to other civil orders.

### **Tailored conditions**

The practitioners frequently identified prohibitions and positive requirements as a useful method of managing respondents. The flexibility to use various conditions in SPOs was highlighted as a significant advantage, allowing the customisation of SPOs to individual stalking cases. The wide range of prohibitions and positive requirements described by practitioners demonstrated this flexibility in regard to conditions. As expected, the most common conditions contained in SPOs included prohibiting the respondent from contacting or approaching the victim or their family. Another general condition was a positive requirement for respondents (recipients) of SPOs to surrender their electronic devices and provide police with access to their social media accounts. This indicates a consistent national trend, as the review of SPOs also found this to be the most common positive requirement (Home Office and HM Courts and Tribunals Service, 2023b).

Some of these conditions were more refined, preventing the respondent from recording victims or maintaining any form of surveillance over them. In one case, a legal practitioner (P16) discussed using conditions to prevent a respondent from ‘using the identity of [the victim]’ online and ‘encouraging or coercing any third party to breach [the SPO].’ These examples signify an increasing understanding of cyberstalking and the use of internet-facilitated technology by the police in recent years (Suzy Lamplugh Trust, 2021c; Martellozzo *et al.*, 2022), as well as recognition of the criminal justice system’s need to do more to tackle cyberstalking effectively (Home Office and HM Courts and Tribunals Service, 2023b; HM Inspectorate of Constabulary *et al.*, 2024).

Less common conditions referenced by practitioners included GPS tracking. GPS tracking was regarded as applicable in cases where perpetrators had been repeatedly approaching victims and their homes. However, this did not always offer a simple solution. In one case, a police practitioner (P6) explained how an SPO respondent ‘wore his tag, but he didn't keep it

charged, so we had to go back to court and vary the wording of it'. This example is interesting as it suggests that choosing the 'right' conditions for respondents and formulating them carefully so that there are no loopholes for respondents to breach constitutes a challenging task.

Preventing respondents from making vexatious complaints was also occasionally discussed. Vexatious complaints involve filing or continuing legal action with no valid legal basis, solely to harass, annoy or control someone, and/or to cause the victim significant legal and financial burden. For example, vexatious litigation can include making false allegations or filing motions with no legal or factual basis. Vexatious litigation has been identified as a common stalking behaviour, with offenders often submitting complaints to the civil courts (Pathé *et al.*, 2004; Home Office, 2015; Home Office, 2024c). While one advocate (P10) recalled that they saw the condition prohibiting 'vexatious applications' for civil court 'a lot', none of the other practitioners even mentioned this condition. Consequently, in the absence of nationally representative findings, it is difficult to say how often this condition is used nationally.

Practitioners strongly supported the inclusion of prohibitions and positive requirements in SPOs, suggesting that the order permitted a 'creative' approach to setting conditions, as explained by a police practitioner (P2):

I think one of the strengths of the Stalking Protection Order is that it allows us to tailor the external controls to that individual case. So, I think that's something that we've noticed locally and has been tactically very useful in managing the risk, creating opportunities for us to intervene that otherwise wouldn't have existed.

Many participants emphasised the importance of individualising each SPO to the suspect. In one example, a legal practitioner (P12) described the creative use of positive requirements to overcome jurisdiction issues in a case where the respondent and victim resided in different countries:

We can't prohibit them from going to [the victim's country] because we can only prohibit behaviours in the UK. But we have required them to inform the police within seven days if they have any plans to travel to [the victim's country] and to provide details like their flight number and their accommodation details so that we could then pass that on to law enforcement agencies in [the victim's country].

Practitioners had different perspectives on whether a specific list of conditions should be used in SPOs. At the time of writing, there is no list of prohibitions and positive requirements that police have to choose from. Rather, police can devise and formulate any conditions that they consider appropriate and apply for these to be imposed by the court. Most participants involved in the application process for SPOs indicated that there was no formal or informal set of requirements from which to choose, and often opposed the notion of introducing one. For example, a victim support practitioner (P13) described being asked by researchers if they thought a list of potential conditions for SPOs would be helpful:

[They] asked us if we thought that having a set booklet of conditions and stuff like that would be a good thing, or if I think that would be useful. And I honestly think that for stalking, that is not a good thing, and it wouldn't be useful. I guess there's a practical thing that the police go to the booklet and see things that they can copy into the application. Maybe it would kind of make it easier for them, or they would feel more confident about doing it, but then in practice, it would take this kind of case-by-case assessment of the situation and getting conditions that are more personalised, which we know in stalking [cases], they're very important because all stalkers are different and it can be really difficult to condition or reduce action for stalkers to continue their behaviour.

This points to the complexity of stalking and its diverse forms, making it difficult for practitioners to predict offenders' behaviour and pre-emptively create adequate conditions for each case. Although there is no universal agreement on 'types' of stalking, research has shown stalking to be a complex phenomenon, with various motivations and relationship dynamics (Mullen *et al.*, 1999; Quinn-Evans *et al.*, 2019). The five types of stalking identified by Mullen *et al.* (1999) were often referenced by practitioners when describing different stalkers, namely: rejected, intimacy-seeking, incompetent, resentful and predatory

stalkers. Accordingly, it is logical that diverse conditions and approaches would be necessary to tackle stalkers' behaviour effectively.

Only one police practitioner (P4) from a South East England force described having a specific 'bank' of prohibitions and positive requirements from which they selected. However, they also expressed the view that it was essential to tailor 'all the requirements to [the] specific offence', so as not to 'annoy the court' with inappropriate or unrealistic conditions. This suggests that tailoring SPOs appropriately is a frequent issue for the police, with survey respondents highlighting issues with 'ambiguous' or 'impractical' conditions (Home Office and HM Courts and Tribunals Service, 2023b). However, the same practitioner added that 'you can get what you want really as long as you can demonstrate that it's proportionate to the offence.'

The potential for creative use of positive requirements to be protective was highlighted by several practitioners. Nonetheless, others described observing a reluctance or a lack of confidence to apply them in some areas, as a legal practitioner (P12) explained below:

[Applying for positive requirements] doesn't happen very often. Generally, when the courts are imposing a protective order, it's because they want to stop contact. They want to stop somebody from being able to contact somebody else. They want to stop them from turning up at work or the gym or monitoring their [...] activity, and they can all be met by prohibitions being put in place to do it. I would say it's certainly my experience in [South West England] that out of the [SPOs] that we've applied for, only one of them has contained positive requirements.

This corroborates the findings of the Home Office and HM Courts and Tribunals Service (2023) review of SPOs, reporting that prohibitions were more frequently included in SPOs than positive requirements in their first year of use. The stalking super-complaint also found that positive requirements were not extensively used, with only 8 SPOs in a sample of 25 including positive requirements (Suzy Lamplugh Trust, 2022). The report regarding the super-complaint revealed comparable results: support service providers for stalking victims

highlighted that the absence of strong prohibitions and positive requirements undermined the effectiveness of the orders (HM Inspectorate of Constabulary *et al.*, 2024). While the Home Office review reported that some judges were more reluctant to impose positive requirements (Home Office and HM Courts and Tribunals Service, 2023b), most practitioners did not indicate that this was the case. Nonetheless, these findings consistently show that positive requirements are not being used to their full potential.

### ***Poor availability of stalking intervention programmes***

However, the poor availability of stalking-specific intervention programmes was recognised as one of the most significant drawbacks to the order's efficacy. The requirement for respondents to attend intervention programmes was viewed positively by many practitioners, who reported a variety of intervention programmes, including ‘substance abuse services, mental health services [...] specialist perpetrator programmes’ (P11, advocate). Practitioners were generally positive about the intervention programmes, with many highlighting the need to consider the mental health needs of respondents:

[SPOs are] there to help the suspect as well because, unfortunately, stalking, in particular, is intrinsically linked to mental health, and people might not be aware of this stuff, but a good thing about a Stalking Protection Order is we could potentially put a requirement for them to attend mental health assessments or one of these suspect perpetrator intervention programmes and again signposting behaviours. But just trying to stop stalking happening in the future and Stalking Protection Orders - yes, they are designed to safeguard the victim, our future victims, but they're also there to help and hopefully educate the suspect or signpost the perpetrator into the relevant agencies.  
(P5, police practitioner)

For these practitioners, the fact that SPOs could be used to require respondents to attend an intervention programme made them especially beneficial compared to other preventive orders with no ability to impose positive requirements, such as the restraining order or NMO. One police practitioner even explained how the inclusion of an intervention programme helped to get SPOs granted in their case:

When I went to court, I had to go because the judges didn't understand what [the intervention programme] was, and they wanted some explanation about it. We are gonna restrict [the respondent] and make you do things. But actually, we're gonna help you as well by offering you to go into this course to try and manage - for you to stop yourself from offending and [...] the magistrate was really interested by that and thought that was a really positive step. So, I think it definitely helped for them to grant the [SPO]. (P4)

Contrary to the view presented by one legal practitioner (P12) that prohibitions are sufficient, the use of positive requirements in this case shows that they can be an essential factor in obtaining SPOs. As identified in the above quote, positive requirements create opportunities to potentially rehabilitate respondents, which would not be possible with prohibitions alone.

Nonetheless, echoing points also aired in the stalking super-complaint report (HM Inspectorate of Constabulary *et al.*, 2024), several practitioners reported that there was a lack of stalking-specific intervention programmes in their areas, especially evidence-based interventions. This was often attributed to a lack of providers or funds:

But obviously, the programmes are few and far between, so we're not seeing it a lot and Building Better Relationships - which is often the probation [domestic violence] perpetrator programme - isn't really appropriate because it just gives stalkers more things to think about of how to develop their obsession when they start with the group or other offenders who've been abusive to people. So yeah, it's not always, but there are some programmes. I know there is some stuff and some work going on out there with stalking perpetrators, but it's limited in terms of access. (P9, advocate)

This finding broadly supports the work of existing official reports on the policing of stalking. At the time of writing, only a small number of police forces have access to or offer interventions for stalking offenders (HM Inspectorate of Constabulary *et al.*, 2024). This problematic absence has long been acknowledged by researchers and practitioners in both the UK and the US (Spence, 2004; Her Majesty's Inspectorate of Constabulary and Her Majesty's Crown Prosecution Service Inspectorate, 2017; Taylor-Dunn *et al.*, 2018; Jerath *et al.*, 2022). Although there are currently encouraging developments, such as the piloting of the Multi-Agency Stalking Intervention Programme (MASIP) and Early Awareness Stalking Intervention (EASI) in several forces (Tompson *et al.*, 2020; Jerath *et al.*, 2022; Jerath *et al.*,

2023; College of Policing, 2024b), intervention programmes remain unavailable in many areas in England and Wales.

The availability of intervention programmes for substance abuse or offending, such as domestic abuse, is similarly restricted by area and waiting lists (JUSTICE, 2023; The Parole Board, 2024). However, the study's findings strongly suggest that they are more accessible than stalking intervention programmes, with practitioners only recalling a lack of the latter. However, a victim support practitioner (P13) expressed concerns about the use of domestic abuse intervention programmes for stalking behaviour:

They're not always very good for actually managing their behaviour. If we have an intimacy seeker being suggested a perpetrator's domestic abuse course, it's not good. It's not ideal, especially because it will feed on that obsession because they will think, "If I do all of these things right, she will get me. She will say yes." So, there's still that gap, I think, which is [why] we probably need specific programmes for stalkers and then maybe even different types of stalkers.

One victim support practitioner (P8) echoed this sentiment. Describing the use of a perpetrator programme typically used for domestic abuse and substance abuse cases for stalking, they argued, 'there's no proof at all that it is successful for the stalking.'

Although some researchers have suggested that domestic abuse intervention programmes may be applicable to stalking due to the link between domestic abuse and stalking (Römken, 2006; Melton, 2007), the findings presented in this study indicate that practitioners disagree and, in fact, worry that these could be detrimental. Domestic abuse interventions are also unsuitable for cases that do not involve intimate partners, which accounts for a significant proportion of stalking incidents (Suzy Lamplugh Trust, 2021c; Office for National Statistics, 2024c).

Predictably, several practitioners highlighted the need for more stalking intervention programmes regarding improvements and recommendations for SPOs. These calls for more stalking-specific intervention programmes further evidence their necessity, echoing similar

recommendations to research, evaluate, and fund them in the stalking super-complaint report (HM Inspectorate of Constabulary *et al.*, 2024).

Interestingly, a victim support practitioner (P13) also pointed to the need for further research on existing stalking interventions:

And also, I think intervention programmes for stalkers, what is it that is working [...] Should we have different types of programmes for different types of stalkers? I would say probably yes. But I don't know. And what if that is more adequate? What is it that actually works? Because I feel we're really good at enforcing things and then spending a lot of money within the criminal justice system and bringing more prohibitions into place, but we're not really doing anything in terms of prevention. So that would be interesting to see.

The study findings strongly support this point, with many practitioners emphasising the importance of positive requirements in addressing stalking. To address the imbalance between positive requirements and prohibitions, considerably more funding and provisions are needed.

Encouragingly, the government has taken several steps to address these issues. Firstly, it was announced in December 2024 that national standards on stalking perpetrator programmes are set to be published (Home Office *et al.*, 2024). It is hoped that this will help to establish a more consistent and evidence-based approach towards addressing stalking behaviour. The Home Office also revealed that all the recommendations in the stalking super-complaint report – including the need for more intervention programmes - would be accepted or partially accepted.

Although this represents a positive step in enhancing SPOs' impact, it remains to be seen whether the need for more programmes is only being 'partially' addressed. While including positive requirements in SPOs, such as intervention programmes, is beneficial and helps to improve the policing of stalking, SPOs will not achieve their full potential until these are made possible through resources and recognition.

### **The preventive power of the criminal penalty**

SPOs are civil hybrid preventive orders, meaning that they are civil orders with criminal penalties. An SPO carries a maximum penalty of up to five years' imprisonment for breaching it. Practitioners often referred to the potential of the criminal penalty for breaching an order to contribute to specific anti-stalking aims, including deterrence, incapacitation, access to rehabilitation interventions, accountability, and reassurance for victims.

While it would be reasonable to assume that the potential consequences of breaching SPOs would discourage stalking offenders, evidence supporting this assumption is minimal. Only one practitioner (P4, police practitioner) from the entire sample reported a specific case in which the penalties for breaching SPOs successfully deterred a respondent:

They did have one case where [the respondent] was quite glad because his words were along the lines of, "Right, I'm done now. I'm going to get in trouble." So, it was almost like he needed something to know that if he did it, he'd get in serious trouble. And [he hasn't] breached it since. He just accepted what he'd done. He accepted that the order was there.

Instead, many participants were doubtful about SPOs' ability to deter perpetrators, citing the obsessive nature of stalking:

[...] Also, it really depends on the stalker, doesn't it? Because for somebody who is fixated, having a protective order issued isn't necessarily a deterrent, so it really depends on whether the stalker adheres to it. (P11, advocate)

Another advocate (P10) agreed, noting that if prison 'acts as the deterrent that it's meant to be, it works fantastically.' However, if the respondent has a lengthy criminal history, the advocate warned that prison for respondents can be like 'home. It's structured [...] They want to go back there because they're like, yeah, cool, I don't care.'

Accordingly, for many practitioners, the criminal consequences of SPOs have acted more as a way of managing offenders and protecting victims. The advantage of having criminal ramifications for SPOs was summed up by one advocate (P9):

And actually, that's the bit that makes SPOs stand out because with stalking perpetrators, because of the obsession and fixation, they're not just going to stop the behaviour unless their obsession moves to somebody or something else [...] We don't see lots of stalking cases where the offender gets a custodial sentence, or they get a treatment plan because of mental health concerns. They're often given suspended sentences and things like that. So, this is where SPOs are really useful because, actually, they can be managed a bit better.

This indicates that the penalty of imprisonment was key in managing respondents more effectively, physically restricting respondents from approaching their victims or victimising other people. In contrast with the typical responses to stalking, such as suspended sentences or treatment plans, which, by allowing the respondent to remain in the community, could risk them stalking the victim again, SPOs enabled incapacitation.

One legal practitioner (P12) concurred with this view, explaining how the criminal consequences of SPOs offered the strongest protection for victims:

The penalties for breach can be quite severe. It's an arrest, it's a criminal offence, and it carries up to five years' custody, and actually, in terms of protective orders that can be applied for by the police, Stalking Protection Orders offer the best protection, the strongest type of protection. When you compare that with other orders that the police can apply for, that's as good as it can get; it carries as much weight as a restraining order. So, on paper, they are very, very effective.

Some practitioners also mentioned the threat of imprisonment of respondents due to breaching SPOs as a source of reassurance for victims:

I think it does achieve safety, and I think it does make people feel safer [...] We can get [the respondent] for that breach, and then they can pass it down and get them arrested. So, I think it's probably, for stalking victims, it is the best protection that could be offered. (P10, advocate)

A victim support practitioner (P7) agreed, expressing the view that victims 'feel much safer now [...] It's the being able to mentally rest.'

They followed up by explaining how SPO breaches can have uses other than managing respondents:

If there are breaches, but if it's recorded properly – *if* is the underlined words there - it can be used for very helpful things. It can go to court cases. It can impact sentencing.

It can build a case against somebody who's continuing to perpetrate crimes, which is really fantastic that it's got that ball rolling if it happened before. And when there are breaches as well, actions could be taken to support survivors very quickly, and you know that there could be subsequent action to keep that perpetrator away from their victims quite properly as well, which is fantastic.

A police practitioner (P17) thought that 'from a policing point of view', breaches were 'really easy' and believed that police in their force 'dealt with [breaches] quite well.' However, as implied by Participant 7 above, some practitioners were sceptical about the overall enforcement of SPO breaches by the police. This included criticism of the overall management of SPOs and their conditions. This is consistent with issues identified in the super-complaint and report, indicating that police failure to respond following breaches of SPOs is a frequent and widespread problem (Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary *et al.*, 2024).

However, these were not the only issues associated with enforcing SPOs. Throughout the interviews, it became apparent that several specific factors acted as barriers to SPOs being implemented in the first place. Some of the most prevalent issues included: poor knowledge and understanding of stalking; a time-consuming and complex application process; and SPO applications clashing with stalking prosecutions. I expand on these below.

### **Barriers to using SPOs**

Although these findings indicate that many aspects of SPOs can provide an effective response to stalking, the actual impact of SPOs is limited by their low uptake. As evidenced in the FOI findings presented in **Chapter 4**, police forces and courts across England and Wales do not regularly or consistently use SPOs. Unsurprisingly, the vast majority of practitioners also reported the same issue, often expressing frustrations that SPOs were not being used more frequently. For instance, when asked their views on the use of SPOs, one victim support

practitioner (P7) working for a national charity said, 'No. So [SPOs] are so rare.' They followed this up by explaining that:

There aren't SPOs in place across any of our service users, so it's very difficult for me to have that current overview of somebody who's had SPOs in place because it is very, very rare, at least within the advocacy space.

Other victim support practitioners and advocates strongly concurred with this view, frequently describing having to aggressively 'pursue' orders and 'sell' SPOs to the police on behalf of their clients (P13, victim support practitioner). Many police and legal practitioners also recounted having few SPOs in their forces, with one legal practitioner (P12) from a South West England force, admitting:

Well, our figures were incredibly low, incredibly low, and particularly when you compare that to the number of stalking cases that had been reported, and it was recognised that there is a lot of work that we need to be doing in this area.

While some practitioners, including Participant 12, reported improvements in the use of SPOs within their forces, they also often noted the need for further enhancement. This was universally recognised, with practitioners in regions with higher rates of SPOs agreeing that 'it is not where it should be' (P10, advocate).

These findings corroborate most official reports, substantiating claims that SPOs are not implemented frequently. For example, although the Home Office described the number of SPOs granted between January 2020 and January 2021 as 'promising' (Home Office and HM Courts and Tribunals Service, 2023b), subsequent reports have acknowledged that the police rarely use SPOs (Suzy Lamplugh Trust, 2022; Thomason, 2022; HM Inspectorate of Constabulary *et al.*, 2024).

During the interviews, several practitioners identified reasons for the low usage of SPOs, both directly and indirectly. The main themes are discussed below.

### **Inadequate knowledge and understanding of SPOs**

The most prominent theme affecting the use of SPOs was the criminal justice system's lack of awareness and understanding of what SPOs are and how they can be used to prevent stalking. This was identified as an issue by over 80% of the practitioners. Practitioners from all sectors overwhelmingly agreed that there was poor knowledge of SPOs among the police and in the courts. One advocate (P9) gave a general overview of the level of expertise on SPOs in the criminal justice system and domestic abuse advocacy services:

Some police have a great understanding, but on the whole, we're seeing generally lots of police officers aren't understanding it and not just police, but anyone in the criminal justice system. I've spoken to witness care officers who didn't even know what a Stalking Protection Order was. So, I've had to have conversations with the witness care teams. And they're saying, "Well, the victim said they don't need a restraining order", and I said that's because there's an SPO in place, and they don't know what an SPO is. So right through the criminal justice system, there's a lack of awareness. [...] But ultimately, in the courts, they don't know what SPOs are. And actually, the domestic abuse services. Obviously, they don't support all victims of stalking. They would only support [cases involving] an ex-partner or a domestic abuse-related case of stalking. But their knowledge around stalking and SPOs often isn't great, so they'll come to services like us.

Most police practitioners had similar views, with one describing the 'lack of awareness of the [police] officers' as 'our main stumbling block' (P1). This lack of knowledge also extended to the courts, as the following description of an incident in court, by a victim support practitioner (P13), illustrates:

I think in terms of the courts, so either CPS or even judges, they don't know about it. It's foreign to them. That is my experience. I've been in court [with] a couple of clients, and every single time, I've spoken with the prosecutor about extending SPOs that were in place and both times, they told me, "I don't know what SPOs are", and I end up explaining what it was. And they said, I'll try it with the judge. They went to the judge, and the judge said, "I don't know SPOs. I'm going with the restraining order because that's what I know."

A common theme was the preference for alternative civil measures to be put in place by police and courts, which practitioners attributed to a lack of familiarity with SPOs:

It's exposure of them, I think. It's the police, actually knowing what they are, understanding what they do and understanding why it's important instead of going, "Oh, no, but a [non-molestation order] will be fine." It's not the [SPO] itself. It's the way that it is looked at and the misunderstandings around what a Stalking Protection Order is. (P10, advocate)

Comparison of these findings with those of existing research upholds this view, supporting the notion that police are generally unaware of SPOs and lack experience in using them (Suzy Lamplugh Trust, 2022; Thomason, 2022; HM Inspectorate of Constabulary *et al.*, 2024). This lack of knowledge was often linked to the general misunderstanding of stalking within the criminal justice system, while the challenges of identifying and policing stalking further complicated the SPO application process (Suzy Lamplugh Trust, 2022; Thomason, 2022; HM Inspectorate of Constabulary *et al.*, 2024). This was recognised by many practitioners, with several describing missed opportunities for SPOs to be used:

So, the problems that stalking has in general are replicated with SPOs. Because if you have a police officer who hasn't done the inquiries correctly, doesn't recognise the difference between harassment and stalking, they won't even get anywhere near an SPO. We still have cases where isolated incidents of stalking are never put together, so the whole picture is not grasped. That happens frequently, and ... there were two or three cases where there'd been five or six different officers on the case, and none of them knew each other existed. So, that is still going on. So SPOs can't be successful if you're not even recognising the stalking behaviour in the first place. (P8, victim support practitioner)

Additionally, practitioners noted that training significantly influenced the police's and courts' knowledge and understanding of SPOs. About half of the practitioners indicated that they had not received any training or guidance in using SPOs. While advocates generally had received basic training or guidance on SPOs, many practitioners reported a complete lack of training among the police and in the courts. This was best illustrated by the following quote from a police practitioner (P6):

'[In response to being asked if there is sufficient guidance on SPOs] No, in a nutshell, and I think that's across the whole of the criminal justice system, I don't think it's just a police element. So nationally, there's the [Home Office] guidance, which has been helpful, but obviously, each force area deals with it differently. [...] And I think [the lack of training is] the downfall, and I think the courts don't recognise the benefits.'

As implied in the previous quote, the courts in particular lacked training, with practitioners being unaware of *any* SPO training having been undertaken. One police practitioner (P3) explained the need for training in the courts as follows:

I just think a better understanding within the courts, just to bring them up to speed with what the ins and outs are, maybe provide them with some additional training. I appreciate how their legal knowledge obviously is a million times better than probably most people that we work with. But I think that sometimes [...] [the court will] manage this through court conditions or they'll manage this through a restraining order, that might be their go-to when actually it's a Stalking Protection Order that should be their go-to.

This corroborates findings in the Home Office review, whereby survey respondents and the APCC expressed the view that police legal teams, magistrates and district judges needed training on SPOs (Home Office and HM Courts and Tribunals Service, 2023b). The same issue was also reflected in the findings of the legal advisors' survey, which revealed that only 40% of respondents were satisfied with the training on SPOs (Home Office and HM Courts and Tribunals Service, 2023b). This underscores the urgent need for training on SPOs for legal practitioners and the courts.

Although some practitioners suggested that the training on SPOs was 'sufficient', most were police practitioners from the same region. Consequently, the training described is likely to be specific to their region and not a nationwide trend, as implied by Participant 6, above. This may also explain the variations in the use of SPOs between different forces, suggesting that the lack of training in most forces also contributes to the lack of knowledge and, hence, the use of SPOs. This supports the findings of the super-complaint regarding the police response to stalking, which reported that training on stalking varies significantly across forces and is not mandatory for over half of them (HM Inspectorate of Constabulary *et al.*, 2024).

### **Time-consuming and complex application process**

Another theme that practitioners identified as a barrier to using SPOs was the process itself.

Many practitioners described the application process as ‘complex’ and ‘time-consuming’, forming one of the significant challenges to using SPOs, second only to the lack of understanding regarding SPOs. For more than 75% of practitioners, the ‘time-consuming’ aspect of the SPO process was particularly problematic, with some directly stating that the time element dissuaded others from using them:

I think there've been practices where [the police have] had bad experiences, where [SPOs have] been time-consuming. and people have gone, “Oh god no, [they are] too time-consuming, and we're not going to do them.” (P1, police practitioner)

According to most practitioners, applying for SPOs was ‘a lot of work’, especially for already ‘overworked’ police officers (P16, legal practitioner). ‘It’s not a simple process at all,’ agreed one police practitioner (P5), while an advocate (P15) recounted, ‘so much red tape around the force applying for them.’ Another advocate (P10) described the obstacles involved in obtaining SPOs:

It has to be the police who make the application. They have to run it through legal [services], get it signed off by a Superintendent. The hoops that you have to go through for it even to be done by that point, if legal [services] are saying, “Yeah, get it signed off, let's get it to court.”

Practitioners also identified the standard of proof and the requirements for gathering evidence as a substantial factor contributing to the time spent applying for SPOs. At the time of the interviews, Home Office guidance suggested that the courts would ‘likely’ apply the criminal standard of proof to full SPO applications and the civil standard of proof to interim SPOs. However, the Stalking Protection Act 2019 did not (and still does not at the time of writing) specify standards of proof for interim or full SPOs. Instead, the statute determines that interim SPOs can be made by the court ‘if it considers it appropriate to do so’, while full

SPOs must be 'necessary to protect another person'. As a result, the courts are required to interpret the appropriate standard of proof for the orders.

Based on the findings, courts widely applied the criminal standard of proof to full SPO applications. For these practitioners, the criminal element of SPOs was a significant problem in getting SPO applications granted:

[SPOs have] got to meet that criminal standard, and that's the downfall, I feel, of them because that burden of proof is much higher. We're then really struggling, so although our victims might not support a prosecution, we've then got to meet that burden of proof of the criminal standard to go well, actually, there is sufficient beyond a reasonable doubt that we should be applying for a Stalking Protection Order. And if we haven't got the likes of phone evidence, CCTV - it could be a combination of different inquiries - then we're not going to get a Stalking Protection Order. (P6, police practitioner)

This view was echoed by an advocate (P15), who strongly argued that the criminal standard of proof posed the most significant issue, as opposed to police inaction:

And I think the root of the problem doesn't necessarily lie with the police. The root of the problem lies with the Stalking Protection Order itself. It should have been like a DVPO where that criminal threshold did not need to be met. If they removed that criminal element and it was similar to the DVPO application process. Because I know when [the police] take [the respondent] for SPOs, [the respondent has] a right to have a solicitor there. They don't with the DVPO, you're getting caught, it gets issued, it's done. Job done.

Although not all the practitioners explicitly identified the criminal standard of proof as a problematic issue in applying for SPOs, evidence-gathering was widely considered extremely time-consuming, as a police practitioner (P1) explained:

[SPOs] are more time-consuming than other orders, I would suggest in any case, because they're more evidence-based for the approval at court. [It] has to be sort of beyond all reasonable doubt, I think, what they put forward to the court. So, it has to have a lot of evidence in it, and I think [because] of the length of time it can cover, and because it's got such strict sort of prohibitions and preventative [conditions] in it, I think the court has to be satisfied that it's definitely needed.

Most practitioners agreed with this view, believing that the SPO process was ‘frustrating’ and ‘a lot of work.’ For one advocate (P11), situating SPOs with frontline officers and response teams exacerbated the problem:

I'd just like to see the process made a bit easier and quicker. I think, at the moment, it's having to rely on police officers to make the application and proceed with it. I don't think that's the most helpful thing because we're asking an already very, very busy and under-resourced service to do another piece of work, and I don't think that's the most effective way for us to have these issued and I wonder if that's why [we've seen] such a low uptake really of SPOs [...] I'd like to see the process made much, much quicker and easier for victims to be able to obtain SPOs.

Recent policy changes indicate that the standard of proof presented a considerable obstacle to applications for SPOs. In May 2024, the standard of proof accepted for a full SPO was changed to align with the civil standard, thus making the evidentiary standard easier to meet (Home Office and Farris, 2024). While it remains to be seen whether these changes will improve the use of SPOs, based on the interviews, removing the criminal standard of proof will at least reduce the evidence gathering required for SPOs. Nonetheless, as this change will only ‘*likely* [my italics] be accepted by the courts,’ according to updated statutory guidance on SPOs (Home Office, 2024c), there is no certainty that the courts will accept the civil standard of proof for a full SPO.

According to some practitioners, waiting for court hearings was the most time-consuming part of the application process. Describing it as the ‘longest’ and ‘really frustrating thing for me’, a legal practitioner (P12) explained the typical process involved in getting a hearing date:

So, [I] wait till the paperwork is ready. I will then contact the court or ring them generally and say to them I'm about to send you over some papers. So, a Stalking Protection Order. Can I have [a] hearing date? And we'll agree on a date in a couple of weeks' time, for example. Or sometimes it might even be the following week if there's more urgency to it. So, we'll get the date, I fill [in] the date detail on my paperwork and send it across to the court. And then, we have to wait for the paperwork to be authorised by the Court, and we have to wait for the court summons to be authorised by a legal advisor. And then that authorised summons, authorised paperwork, gets sent

back to us, and we then go and serve it on the suspect. Sometimes, that authorisation process by the court can take a little while, and then that delays us because we are rushing around at the last minute to make sure that we've served papers on the suspect in time.

This reflects existing research on SPOs, which also widely reports delays in attaining court hearings for SPOs (Suzy Lamplugh Trust, 2021c; Home Office and HM Courts and Tribunals Service, 2023b; HM Inspectorate of Constabulary *et al.*, 2024). While some have attributed this delay to court backlogs caused by the COVID-19 pandemic (Suzy Lamplugh Trust, 2021c; Home Office and HM Courts and Tribunals Service, 2023b), the current study did not find much evidence to support this view. When asked, very few practitioners felt that the pandemic significantly affected the use of SPOs; indeed, some even felt that the pandemic was often used as a convenient 'excuse' for not implementing SPOs more stringently. This corroborates other research on SPOs, which also cast doubt on the pandemic explanation (Thomason, 2022; Home Office and HM Courts and Tribunals Service, 2023b). In fact, the practitioners interviewed for this study were more likely to attribute delays to the complex nature of the SPO process. Combined with existing research, this indicates that the complexity of the process is one of the most substantial barriers to SPO applications overall.

### **SPO applications potentially prejudicing or interfering with stalking prosecutions**

Another key finding concerns conflicts between SPOs and stalking prosecutions. The interview participants indicated that SPOs also *directly* conflicted with stalking prosecutions, making evidence gathering more complicated.

Some practitioners were concerned about the difficulties of applying for SPOs alongside a stalking prosecution. Home Office (2024) statutory guidance on SPOs states that SPOs are '*not* an alternative to prosecution for stalking offences under the Protection from Harassment Act 1997' and can be used to 'complement' a prosecution. However, the findings suggested

that this could be more difficult in practice. Several practitioners found that the process of demonstrating the criminal standard of proof accepted for a full SPO could potentially interfere with stalking prosecutions. One advocate (P9) found that in some cases, gathering and presenting the evidence necessary for SPOs could endanger a prosecution:

‘[...] The only problem that we've seen with [the criminal standard of proof] and there's cases where we've advocated for an SPO and the police have been on board and the legal team have even been on board, but then what they've said is the problem if we go for it is it could jeopardise the actual charge because of the evidence that would need to be presented for the SPO hearing. The offender, the suspect at that point, would then have access to that because obviously they're called to that hearing for the SPO, and they'd have to be given that information of why an SPO has been put in.’

Police are required to disclose evidence to respondents in order to ensure the defendant has a fair trial. This has created a problem because, in cases where the police had applied for an interim SPO early on, they were hesitant to disclose all the information they possessed about the case before even interviewing the suspect. This proved confusing for many practitioners, especially those in the police. Another advocate (P15) succinctly captured the reasons for this confusion:

And that is what the police can't work with; they're not equipped to work with the non-criminal threshold. They're equipped to work with the criminal threshold, but then that contradicts what they're already doing with the CPS and trying to get a prosecution. It should be a complete civil order. It needs to be changed.

As indicated by the advocate mentioned above (P9), this implies that the evidence gathered for a full SPO is essentially the same evidence needed for a stalking prosecution. As a result, SPO applications could significantly overlap with or duplicate stalking prosecutions, rendering SPO applications arguably pointless. Due to the police being more familiar with the criminal standard of proof, Participant 15 felt that the police neglected interim SPOs, which are based on the civil standard of proof: ‘Everything is about the criminal element, and [the police] lack confidence and knowledge in the civil element’.

In their view, this represented a failure by policymakers in creating SPOs, as they felt that policymakers had overcomplicated the orders by introducing a criminal element into SPOs. They insisted that ‘A civil element and a criminal element are two conflicting things which don’t belong in the same court’. As a result, they argued that SPOs should be wholly civil orders based on the lower civil ‘balance of probabilities’ to simplify the process for police.

This issue was also reported by a victim support practitioner (P8), who expressed frustration with the practice of a specific police force:

‘[East of England] police have a process that they only ever apply for the full [SPO]. We don’t believe that’s right. We believe that they wait too long to apply for an order sometimes. So, very often, it clashes with the court case, so if there is a court case running alongside it, and then you get into a bunfight over is a restraining order better than the Stalking Protection Order, which is not very helpful.’

This practice does not appear to be uncommon, as another police practitioner based in North West England (P2) reported that they had also tried to obtain full SPOs outright, as ‘it makes sense to have that longer term protection in place.’ However, they did not mention whether this caused similar conflicts between courts.

The stalking super-complaint report also found evidence that interim SPOs – always judged on the civil standard of proof – interfered with potential stalking prosecutions (HM Inspectorate of Constabulary *et al.*, 2024). Instead of direct clashes with the court, some officers found disclosing evidence to respondents in interim SPO applications problematic. Limited research exists regarding the interaction between preventive orders and criminal prosecutions, meaning that it remains unclear whether these orders hinder prosecutions or if the opposite is true. This lack of clarity makes it challenging to ascertain whether the issues related to SPOs are unique. However, the findings presented here offer original insights by illustrating how preventive orders can conflict with criminal investigations and prosecutions. I now turn to findings on the use of hearsay evidence for SPO applications and how the civil standard of proof influences the evidence presented for SPO applications.

### *The use of hearsay evidence for SPOs*

Several practitioners discussed the conflict between SPO applications and stalking prosecutions. However, one legal practitioner (P12) working for a South West England force explained that they had developed methods to avoid situations in which SPO applications interfere with criminal investigations:

We often aren't involving the victim in the Stalking Protection Order applications. We're relying on hearsay evidence from the officers about what the victim has disclosed to them in an attempt not to prejudice any criminal investigation that's running alongside the Stalking Protection Order application. I haven't experienced any particular difficulties.

Although 'hearsay' does not have an official definition, it can be defined as oral or written statements made about facts not personally experienced by the witness (Sime, 2022). Hearsay evidence is generally inadmissible in criminal proceedings, although there are exceptions. For example, some statutory provisions under the Criminal Justice Act 2003 or common law rules can deem hearsay evidence admissible. This can include witnesses being unavailable or the court deciding that it is in the interests of justice for the evidence to be admissible (CPS, 2021).

However, hearsay evidence is generally admissible in civil proceedings under the Civil Evidence Act 1995. This means that hearsay evidence can be used in applications for civil preventive orders, including SPOs, although police must serve the evidence 21 days before a hearing if the respondent contests it (Home Office, 2024c). Nonetheless, hearsay evidence still faces scrutiny from the courts and is typically given limited weight by judges in civil proceedings (Munday, 2018; Sime, 2022).

Despite hearsay evidence being heavily scrutinised, Participant 12's statement implies that it was key to their SPO application to avoid prejudicing the ongoing criminal investigation. While this practice could be specific to Participant 12's force, further findings strongly

suggest that hearsay evidence is a key component in SPO applications. For instance, several practitioners described the benefits of using SPOs in cases where the victim does not engage with the court process:

If the person is not supportive of prosecution because they don't want to go through the rigmarole of court, but they want the [SPO], which is something like I said, it can be done. (P10, advocate)

In one case, a police practitioner (P5) described how SPOs could act as an alternative to stalking prosecutions in cases where the victim is unwilling to attend:

Sometimes you have a victim who isn't willing to attend court for the criminal side of the investigation. So, if we can't take the case [or] do a victimless prosecution, then a Stalking Protection Order is a positive thing. I did have a case where the victim was so frightened she wouldn't support it, and we couldn't do a victimless prosecution without her; we didn't have sufficient evidence, but she was really supportive of a Stalking Protection Order because nine times out of ten, they shouldn't have to attend court.

Given the long-established relationship between domestic abuse, coercive control and stalking (Stark, 2007; Melton, 2007; CPS, 2020), victims of stalking often share similar fears and reluctance to engage with the criminal process. Stalking victims are frequently disinclined to report to the police, and it takes, on average, 100 incidents before they finally do so (CPS, 2020). This is especially the case for vulnerable victims, with hearsay evidence being increasingly used for victims of domestic abuse and coercive control, so that victims can avoid the potentially traumatic court process (Bishop and Bettinson, 2018). Many practitioners recognised this fear, contributing to the perception of SPOs as beneficial tools for protecting victims of stalking. However, it is important to note that this practitioner's experience seems exceptional, as most practitioners did not report SPOs acting as an alternative to stalking prosecutions.

Interestingly, the super-complaint report contradicts these findings, indicating that courts frequently do not accept hearsay evidence (HM Inspectorate of Constabulary *et al.*, 2024).

Some officers found that, contrary to the statutory guidance on SPOs, they needed the participation of victims to make successful applications for SPOs. However, the report did not clarify whether this was a nationwide issue, suggesting that it might pertain only to specific regions or courts. Additionally, like this study, the report was conducted before the accepted standard of proof for full SPOs was lowered. This change may lead to courts accepting hearsay evidence more readily due to the lower evidence thresholds now accepted. However, this remains to be seen.

I now summarise the findings and make key research and policy recommendations based on practitioner insights.

## **Chapter overview**

### **Summary**

According to the practitioners, SPOs can effectively address stalking by protecting victims and managing respondents. They were enthusiastic about the range of conditions that can be tailored to specific SPOs, believing that their inclusion made SPOs substantially stronger than previous stalking measures. In particular, the provision of prohibitions and positive requirements, especially relationship requirements and stalking intervention programmes, was viewed as an effective way of preventing reoffending and future victimisation. Interim SPOs and the criminal penalties imposed by the order were also described as a significant benefit compared to other protective measures, mainly in terms of managing respondents and safeguarding victims.

Despite this, many practitioners were disappointed by the reality of using SPOs, claiming that several provisions used in the order fell short. Some of the most substantial shortcomings included the interim SPO falling short of expectations as a quick intervention measure and a

lack of available stalking intervention programmes in terms of positive requirements.

However, the vast majority of practitioners strongly agreed that the low use of SPOs was one of the main problems – possibly the biggest problem - with the orders. A significant lack of awareness regarding SPOs among police and courts was identified as one of the primary obstacles to their usage; the courts seemed to be remarkably uninformed about SPOs and their conditions. The SPO application process was also perceived as time-consuming and complex, often deterring police officers from utilising the orders. Practitioners also found that SPOs could conflict with stalking prosecutions due to overlaps in the evidence required or court hearings being held simultaneously.

These issues show that while SPOs *could* be an effective tool in tackling stalking, policymakers did not fully consider how police practice and systemic issues within the criminal justice system would impact the effectiveness and implementation of SPOs. The findings strongly indicate that the government has largely failed to implement steps to facilitate the use of SPOs, with a lack of training on SPOs and stalking intervention programmes being pertinent examples. Furthermore, it is evident that policymakers did not sufficiently take into account the impact of pre-existing problems within the criminal justice system on the efficacy of SPOs, especially regarding court delays and the ongoing lack of awareness and understanding of stalking. It is also evident that potential clashes in evidence gathering and submission between SPO applications and stalking prosecutions were not adequately considered. Not only does this highlight the impact of pre-existing issues within the criminal justice system on SPOs, but it also emphasises the importance of strategising a new system to facilitate the effective use of SPOs. Therefore, SPOs are unlikely to function effectively unless policymakers make sustained efforts to address existing systemic issues within the criminal justice system.

Numerous recommendations to improve SPOs were suggested by practitioners based on these challenges, which are addressed below.

### **Recommendations**

The practitioners provided various policy and research recommendations for SPOs. One of the most noted improvements needed is greater availability of national stalking intervention programmes, as many practitioners lacked stalking-specific programmes in their local areas. Practitioners desired further research to evidence the impact of existing stalking intervention programmes. These insights support recommendations set out in the stalking super-complaint report, with the HM Inspectorate of Constabulary *et al.* (2024) advocating for further research, evaluation and funding of stalking-specific intervention programmes. The government has already pledged to publish a set of national standards on stalking perpetrator programmes and to accept or partially accept recommendations from the super-complaint (Home Office *et al.*, 2024). However, whether and if so, how these recommendations are addressed remains to be seen.

Another key recommendation made was for more training on SPOs. Reflecting findings from the stalking super-complaint report (HM Inspectorate of Constabulary *et al.*, 2024), police training on SPOs was poor, as only a few forces had elected to train staff about how to apply for and use the orders despite statutory guidance on SPOs. While training needs were recognised across all sectors, the absence of training for the courts was deemed particularly urgent, as practitioners struggled to recall any guidance or training on SPOs in the courts. This was also cited as a future research recommendation, with some practitioners wanting to gauge the courts' understanding of SPOs. This supports the recommendations made in the Home Office review, as survey respondents and the APCC indicated that police legal teams, magistrates, and district judges required training on SPOs (Home Office and HM Courts and

Tribunals Service, 2023b). Thus, it seems evident that training on SPOs should be made available nationally across all stakeholder sectors.

Practitioners also believed that significant improvement in the SPO application process was called for. Specifically, they felt it needed to be quicker and more straightforward, especially given the difficulties in attaining a criminal standard of proof for a full order. While the Home Office review suggested that the criminal standard or proof was not a barrier, the study's findings are consistent with existing research on SPOs showing the standard of proof to be one of the biggest impediments to SPO applications (Thomason, 2022; Suzy Lamplugh Trust, 2023; HM Inspectorate of Constabulary et al., 2024). Some progress has already been made on this front, as the government has updated the statutory guidance on SPOs, changing the standard of proof accepted for a full order from the criminal standard to the civil standard (Home Office, 2024c). However, as this is only 'likely' to 'be accepted by the courts' (Home Office and Farris, 2024), issues may still occur in getting the courts to accept evidence below the criminal standard. Nevertheless, the lowering of the standard of proof has significant implications for procedural fairness and due process, a point that I discuss further in **Chapter 6**.

The practitioners further recommended that more interim SPOs be applied for, and the process for obtaining them should be expedited. However, this may prove difficult as the SPO application process requires that both an interim and a full order be applied simultaneously. While some may argue for a separate application process for the interim SPO, it is unlikely to speed up the process due to the necessary scrutiny required by the courts regarding potential prohibitions and requirements included in an application. Some practitioners suggested that establishing a stalking protection notice would elevate many of these issues. This recommendation was also made in the stalking super-complaint report as a potential resolution to address gaps in victim protection arising from the process of obtaining an

interim SPO. The study's findings clearly support this recommendation, suggesting that a stalking protection notice could serve as an effective protective measure while interim and full SPOs are being processed in court. However, it would also introduce a new measure for police and courts to familiarise themselves with and gain confidence in implementing, which this chapter has suggested is neither easy nor given.

Additional scrutiny into how SPOs and other preventive measures function in existing legal frameworks should also be undertaken. As shown in the findings, police and courts were frequently unaware of the additional protections offered by SPOs and often opted for other measures such as NMOs and restraining orders, even in cases where they would be inappropriate. This is consistent with existing research on preventive orders, indicating that practitioners seek clearer guidance, particularly because these orders overlap significantly with other legal measures and procedures (Rodgers, 2023). As a result, further training and guidance would assist practitioners in understanding the differences between SPOs and other preventive measures and how to implement them correctly.

Regarding future research, practitioners generally demanded more research on SPOs. In many instances, practitioners sought a better understanding of SPOs, emphasising potential research areas such as:

- Use of SPOs in police forces
- Barriers to using SPOs
- Effectiveness of SPOs
- SPO application process

However, one of the largest areas highlighted for further research was victims' experiences with SPOs. Although the interviews with practitioners involved in the SPO process enabled an examination of the key benefits and limitations of SPOs, the victims' perspective was not

captured. This is a significant research gap, because only a few studies have included in-depth research on victims' experiences with SPOs (Suzy Lamplugh Trust, 2021c; Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary *et al.*, 2024). Thus, conducting research focusing on the victims' perspectives and experiences with SPOs would be beneficial in determining whether SPOs successfully protect victims.

Although not specifically requested by practitioners, it is also essential to explore the extent to which conflicts arise between SPOs and stalking prosecutions. There is a significant lack of research regarding the interactions and potential clashes between civil preventive orders and criminal prosecution processes. Investigating this area could provide valuable insights into how these two legal frameworks coexist. Research involving the police and courts would be a valuable step in understanding why these clashes occur and how they can be avoided.

### **Limitations**

One of the key limitations of the data is the sample size and composition. Due to the challenges in recruiting interview participants, the study included only 17 participants. While this sample size met the study's requirements, certain sectors were underrepresented. For instance, the study included only three victim support practitioners and two legal practitioners. As a result, the perspectives and experiences of police officers and advocates were more prominently featured in the sample. Nonetheless, the findings reached theoretical saturation, highlighting key overarching themes in the use of SPOs for stalking, including their benefits and limitations. Consequently, the sample does not significantly limit the data or the findings.

## **Conclusion**

This chapter examined how the introduction of SPOs contributes to the police's ability to tackle stalking and what the challenges are to their implementation. The findings revealed that SPOs can be robust and effective tools in addressing stalking and protecting victims if used consistently and appropriately. For most practitioners, SPOs were much stronger than pre-existing stalking measures, with especially beneficial features including tailored conditions, the inclusion of positive requirements, interim orders and criminal consequences for breaches. However, several barriers prevent SPOs from being adopted more widely, among which a lack of awareness and understanding of SPOs and difficulties with the SPO application process are significant factors.

The following chapter examines the interview findings using preventive justice theory as a theoretical framework. The findings indicate that SPOs represent a significant departure from pre-existing measures for stalking, with practitioners reporting difficulties in navigating the balance between victim protection and respondents' rights.

## Chapter 6: The preventive turn in criminal law and SPOs

### Introduction

Throughout the mid-twentieth century and beyond, there has been a significant rise in the use of preventive measures in criminal law (Ashworth and Zedner, 2010; Ashworth and Zedner, 2014b; Carvalho, 2017; Rodgers, 2023). Preventive measures criminalise conduct before a traditional offence has been committed (Carvalho, 2017). Ashworth and Zedner specifically define preventive measures as actions that involve ‘restrictions on the individual liberty of action (ii) in order to prevent harm or a risk of harm and (iii) are backed by threats of coercive sanctions’ (2010, p.61).

One preventive measure commonly used in the UK is the civil preventive hybrid order<sup>47</sup>—orders that are typically issued through civil proceedings but incorporate criminal penalties, often resulting in five years' imprisonment for any breaches (Ashworth and Zedner, 2014; Campbell *et al.*, 2019). This is often referred to as a ‘two-step’ legal model in which orders are civil (in that they are made in a civil court) but breaching them is regarded as a criminal offence (Simester and Hirsch, 2006; Ashworth and Zedner, 2014). Like wholly civil measures, hybrid orders restrict the behaviour of respondents via a set of conditions; however, hybrid orders differ in that respondents are subject to a criminal penalty upon breach. Civil preventive hybrid orders have been used in the UK to prohibit a range of behaviours, from anti-social behaviour (Ashworth and Zedner, 2010) to knife crime (Hendry, 2022) and stalking (Kelly, 2020). As of 2019, it was estimated that 33 hybrid orders were

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<sup>47</sup> Terms used interchangeably to refer to civil preventive hybrid orders include ‘civil preventive orders’ (Ashworth and Zedner, 2014), ‘preventive hybrids’ (Hendry, 2022), ‘hybrid behaviour orders’ (Kelly, 2020) and ‘Behavioural Control Orders’ (JUSTICE, 2023). For the purposes of this study, SPOs and similar civil preventive orders are referred to as civil preventive *hybrid orders*. Measures which are not strictly ‘orders’ or include other components, such as notices, are generally referred to under the umbrella of *hybrid measures*.

codified in criminal law (Kelly, 2019a), with many more following after the introduction of SPOs and Domestic Abuse Protection Orders (DAPOs).

This increasingly widespread use of prevention measures and orders in criminal justice has been conceptualised as the ‘preventive turn in criminal law’ by legal theorists (Ashworth and Zedner, 2014; Carvalho, 2017; Melander, 2023). The term ‘preventive turn’ has been used loosely and ambiguously in scholarly discussions (Melander, 2023). Scholars such as Ashworth and Zedner (2010, 2014) and Carvalho (2017) position the preventive turn as the use of preventive measures to (over)criminalise preparatory or possession offences (the planning and preparation stages of a crime) in response to specific threats. This contrasts with the traditional ‘liberal model of criminal law’, which asserts that no one should be convicted or punished unless the charges have been examined in a criminal court, adhering to procedural safeguards established by the European Convention on Human Rights (Ashworth and Zedner, 2008). Consequently, the preventive turn is seen as conflicting with traditional criminal law, and thus some scholars have asserted that preventive policies ‘undermine’ traditional law (Bozbayindir, 2018; Melander, 2023).

While policymakers often justify using hybrid orders to address challenging issues that are inadequately handled by traditional criminal law, the legality of hybrid orders has been questioned by many legal theorists and commentators, who have criticised, amongst other things, the severity of the conditions included in orders (Crawford, 2009; Ashworth and Zedner, 2014; Young, 2017; Hendry and King, 2017; Kelly, 2020; JUSTICE, 2023; Melander, 2023). Although it is a criminal offence to breach a hybrid order, the courts regard the initial application for a hybrid order as a civil proceeding.<sup>48</sup> This means that while proceedings for breach of a hybrid order would carry the traditional fair trial safeguards of a criminal trial,

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<sup>48</sup> R (McCann) v Manchester Crown Court (McCann) [2003] 1 AC 787 at [37] per Lord Steyn, [81]-[83] per Lord Hope, [114] per Lord Hutton.

such as the criminal standard of proof or the right to cross-examine witnesses, these safeguards are unavailable to respondents during the application of an order. As a result, respondents can have highly coercive conditions and imprisonment imposed on them on the basis of much lower evidentiary and procedural standards under the civil standard of proof (Kelly, 2020).

Many commentators have argued that treating the application of hybrid orders as a civil matter rather than a criminal matter is procedurally unfair and contradicts due process. Due process is the legal requirement for the government to respect individual rights. Under due process, the government must provide a set of procedures and safeguards to ensure fair treatment and guarantee the opportunity for individuals to defend themselves in a fair hearing. By withholding these safeguards and procedures for respondents of hybrid orders, commentators argue that orders undermine the human rights of respondents, subjecting them to consequences comparable to or equivalent to criminal prosecution at a lower standard of proof.

In a traditional criminal trial, defendants are entitled to various human rights safeguards. These include the highest criminal standard of proof (beyond reasonable doubt), the right to cross-examine witnesses, the presumption of innocence, and protection from retrospective punishment (laws that impose penalties that were not illegal at the time they were committed), among many others. However, these are not available to respondents when a hybrid order is applied for, as they are civil proceedings. As a result, respondents have a limited opportunity to contest the orders or the conditions included in them.

Another major criticism of hybrid orders relates to the extent to which the measures they impose can be considered proportional to the risk averted or the harm caused (Squires and Stephen, 2005; Ashworth and Zedner, 2014; Mills and Ford, 2018; Kelly, 2020; Hendry,

2022; Heap, Black and Rodgers, 2022; JUSTICE, 2023; Rodgers, 2023). Ashworth and Zedner (2014) pointed out that the penalties imposed by hybrid orders often exceed the penalties for traditional criminal offences, with some orders even lasting indefinitely.

The conditions included in hybrid orders can also be very restrictive on respondents' liberty, limiting their freedom of movement and privacy. Unlike traditional criminal offences, these conditions are largely left to the discretion of the courts. This means that courts can prohibit behaviour that is not usually regarded as a criminal offence for that specific respondent only.

Combined with five years' imprisonment for breaching an SPO, the range of conditions that can be imposed in an SPO is vast, including attendance at a perpetrator intervention programme and/or giving police access to social media accounts. Given that conditions last for at least two years, or even indefinitely, Kelly (2020) argued that this places a considerable burden on respondents, especially where more than one condition is in place. However, as of yet, there has been no empirical research investigating the proportionality of SPOs or their impact on respondents.

Although empirical research has not yet been conducted on the impact of SPOs and their conditions, commentators have already identified some potential problems. Kelly (2020) argued that the coercive elements of SPOs were not sufficiently scrutinised during the Home Office consultation and parliamentary debate. In particular, Kelly (2020) pointed out that the evidential requirements for SPOs are significantly lower than for a criminal prosecution. For instance, under s.2A of the Protection from Harassment Act 1997, a person is only guilty of stalking if they pursue a course of conduct that amounts to stalking, which means it must meet the following criteria:

‘(a)it amounts to harassment of that person,

(b)the acts or omissions involved are ones associated with stalking, and

(c)the person whose course of conduct it is knows or ought to know that the course of conduct amounts to harassment of the other person.’

In contrast, SPOs do not require a course of conduct to be established under s.2A of the Protection from Harassment Act 1997. Instead, they only necessitate proof of a *risk of harm*, which does not need to be a high risk of serious harm. This makes SPOs easier to impose on respondents than a stalking prosecution. In other words, SPOs can impose extremely coercive conditions on a person without them having been proven to have committed a stalking offence.

Using the preventive turn as a framework, it can be argued that SPOs are procedurally unfair. SPOs impose restrictions on individuals backed by the threat of coercive sanctions, yet they do so without the safeguards of a criminal trial or a criminal standard of proof (as of 2024). Respondents who are subject to these orders face highly coercive and intrusive conditions, which can lead to imprisonment if breached.

Although there is widespread recognition of the issues surrounding civil preventive hybrid orders within the preventive turn, empirical research on their effects in England and Wales remains limited (Rodgers, 2023). In a systematic review of empirical research on policing practices regarding civil preventive orders and notices, Rodgers (2023) found that of the 24 orders and notices included in the study, only 13 empirical studies on these measures could be accounted for. This reveals a significant gap in the literature regarding preventive orders. As a result, there is little insight into how constitutional issues in relation to the use of hybrid orders manifest in practice and the impact of this on respondents.

This study addresses the lack of empirical research on using civil preventive hybrid orders by examining how the criminal justice system implements SPOs. These findings also enhance the understanding of preventive justice, particularly with respect to SPOs and their

implications. It examines the hybridisation of preventive measures with traditional criminal penalties, highlighting tensions between protecting victims and safeguarding respondents' human rights. The findings have important implications for future hybrid measures and policy, especially concerning the implementation of orders such as DAPOs.

To contextualise the study findings within the preventive turn, I present excerpts from the practitioner interviews. The findings reveal significant tension between SPOs and the traditional model of criminal law, particularly regarding the tailoring of conditions. Although many practitioners specify tailored conditions as a significant benefit of SPOs, several others also feel that some conditions can be disproportionate and overly intrusive. Conditions such as relationship requirements, which compel respondents to disclose their relationships and indefinite SPOs, are highlighted as examples of conditions and measures that are especially intrusive and restrictive.

Additionally, the findings strongly indicate that the scope of SPOs can be used in ways that infringe on human rights. Several police and legal practitioners experienced difficulties in balancing respondents' rights with the need to protect stalking victims. Practitioners also described seeking clarity and reassurance in exercising SPOs and their conditions from the courts and observed that SPOs were subject to varying levels of scrutiny. These findings strongly suggest that SPOs expand state power in ways not seen in pre-existing measures for stalking, thus increasing the risk of breaching respondents' rights. Drawing from preventive justice theory, I argue that this presents a significant concern in upholding procedural fairness and due process.

## **What can we learn from the implementation of SPOs about the preventive turn in criminal law/policy?**

### **SPOs and tensions between tailored conditions and respondents' rights**

Throughout the practitioner interviews, I sought to find out whether practitioners were satisfied with the provisions or 'powers' included in SPOs. To do so, I asked practitioners whether they felt that SPOs' powers were sufficient or if they could be extended. The vast majority of practitioners felt that the current powers were sufficient; in fact, one police practitioner (P5) described SPOs as 'a powerful bit of legislation.'

However, practitioners were also conscious of the risk of interference with respondents' human rights:

[It's] difficult to answer just because I see the potential if [SPOs] were working to their full potential, and I think if they were working as in theory they should work, we wouldn't need much more. In some cases, there's always these perpetrators who will re-offend; it's just the way it goes. But I think it would be very efficient for most cases. And I don't think that we would need more [powers]. And to be fair, if there were more, I think it would interfere a lot with human rights as well. (P13, victim support practitioner)

Only one practitioner, an advocate (P10), explicitly agreed that there was 'room' to extend SPOs' powers. However, they maintained a cautious perspective, acknowledging that their viewpoint was inclined towards 'a victim-informed approach.' They further acknowledged that the use of coercive conditions in SPOs could infringe respondents' rights:

So, I think that a lot of it boils down to the support that can actually be offered to both victim and perpetrator because you can work as many things as you want on [an SPO], you can make it so they don't go down their street in their area. You can put exclusion zones. ... You could put that they're not allowed to be at a certain place at a certain time. Like you could really go in-depth with how far you could take it, but it's then questioning at what point is that taking away somebody's right to free movement and rights of free speech. I'm not saying that everything that they post [on social media] should be seen under the right to free speech, but we live in a democracy, and people have the right to have that.

As seen in **Chapter 5**, the wide range of conditions that can be tailored to respondents via SPOs was generally considered a significant benefit for victim protection. Many practitioners praised the flexibility to tailor orders to specific cases and respondents, thus enabling a ‘creative’ approach to different types of stalking. As previously discussed, the types of and motivations for stalking are often varied and complex (Mullen *et al.*, 1999; Quinn-Evans *et al.*, 2019), which many practitioners have also found to be the case in their work. The practitioners agreed that tailoring SPOs constituted a significant advantage, as it allowed the application of different approaches and conditions to effectively address specific types of stalking.

The practitioners also pointed out that SPOs were not purely restrictive and could enable positive action for respondents. Unlike orders such as non-molestation orders (NMOs), SPOs allow for the inclusion of positive requirements as well as prohibitions. Positive requirements compel respondents to do a specific action, such as attending a stalking or substance abuse intervention programme. For the practitioners, this was one of the biggest advantages of SPOs, as they could encourage respondents to stop certain behaviours, thus preventing stalking from continuing or escalating. Therefore, it could be argued that the scope of conditions included in SPOs is justifiable to ensure stalking prevention and protection.

Other theorists have also highlighted the potential benefits of hybrid orders as justification for their use. For instance, Nathan (2022) called for a more balanced view of preventive orders, rejecting the argument that including penalties represents a radical departure from state-run processes. Instead, Nathan (2022) argued that the use of coercive measures without the involvement of the criminal courts is common, highlighting the state's use of coercion and punishment in systems such as the police and prisons.

Whilst Nathan (2022) acknowledged that imposing penalties without procedural safeguards can infringe on respondents' rights, he argued that assessments of civil preventive orders should weigh all their ethical benefits and burdens. Nathan (2022) maintained that orders can be justified if they are effective, even if they disproportionately impact or stigmatise respondents. For instance, preventive orders may be warranted when there is a significant likelihood of preventing serious harm, particularly when there is compelling intelligence.

Nonetheless, while the findings indicate that SPOs *could* prevent serious harm, the scope of conditions included in SPOs has troubling implications for due process and procedural fairness. Although the findings presented above do not clearly indicate that SPOs are violating human rights, they do suggest that SPOs have the *scope* to be used in ways that violate human rights. As SPOs only require proof of a risk of harm, critics of hybrid orders argue that such an expansive range of conditions is unfair to respondents who may not have committed an actual criminal offence. Building on Duff's (2010) arguments about subversions of criminal law, Ashworth and Zedner (2014) strongly argued that highly coercive prohibitions are only justified as penalties imposed by a criminal court for 'clear public wrongs' (p.86). Seen through the lens of this argument, the findings lend empirical weight to the assertion that SPOs and their conditions are procedurally unfair, especially as they can substantially restrict respondents' freedom and privacy (Kelly, 2020).

Furthermore, the wide range of conditions included in SPOs also has the potential to disproportionately extend beyond the initial incident. For example, research on hybrid measures such as Community Protection Warnings (CPWs) and Community Protection Notices (CPNs) indicates that the use of generic conditions in measures can be overly restrictive, prohibiting behaviour unconnected to the initial incident (Heap, Black and Rodgers, 2022). While this study's findings did not show any evidence that this is the case for

SPOs, the implication that ‘you can work as many things as you want on [an SPO]’ (P10, advocate) certainly suggests this is a possibility.

The extensive scope of SPOs to violate respondents’ rights was also indicated by practitioners’ concerns about SPOs being exercised appropriately, with several admitting to seeking direction from the courts. I explore these findings below.

### ***Police and legal practitioners seeking legal clarity to navigate the exercise of SPOs and conditions***

Several practitioners described how the courts typically evaluate and judge SPO applications. Many of them indicated that proportionality was a significant consideration in requesting more coercive conditions to be included in SPO applications to the courts. One police practitioner (P4) described the need to provide evidence of the necessity of some conditions:

You can get what you want, really, as long as you can demonstrate that it's proportionate to the offence. If there was somebody who all they've done is turn up outside somebody's house and physically stalked a person, I would struggle to get digital requirements on them because I've got no evidence that they've used any digital methods to stalk that person. So, how can I ask to examine their phone if it's of no relevance to what they've done? I have a bank of prohibitions and requirements that I can use, but it's important that we don't get to that blanket one-SPO-fits-all because that's what really starts to annoy the court, and so we just make sure we tailor all the requirements to that specific offence.

Another police practitioner (P2) explained that they ‘rarely get requirements on interim Stalking Protection Orders, interestingly, because [of] the proportionality issues.’ This reluctance on the part of the courts to impose conditions on interim SPOs is presumably because they were subject to a lower standard of proof at the time than full SPOs.

Other practitioners also voiced their concerns about ‘annoying’ the courts. One police practitioner (P6) explained that ‘we've got to be quite proportionate with [SPOs] as well because we don't want to annoy the courts, and we also don't want to weaken the benefits of them.’ This was especially the case for long-term SPOs, which ‘[need] to be appropriate and

necessary, and you'd have to give an explanation to the court why you feel it would be required for that long' (P16, legal practitioner).

In another case, an advocate (P9) described having to limit the conditions requested by a victim to uphold the human rights of the respondent:

Obviously, the issue that police sometimes have when they're trying to be creative with these conditions is that they have to think about the balance of an individual's human rights as well, in terms of the offender in the case. For example, I had one victim who requested that there be an exclusion zone in five counties, and I completely get why she wanted an exclusion zone in five counties, but you can't justifiably put that in place. She only [lives] in one of those counties. So, I understood her reasons and the anxiety around that, but then there's that balance around human rights.

This indicates that police anticipated that the courts would carefully scrutinise the inclusion of conditions in SPOs and moderate them accordingly. These findings are encouraging as they demonstrate that the courts are exercising caution in regard to tailoring and applying extremely coercive conditions. It also suggests that the courts are mindful of balancing victim protection with respondents' human rights and are making efforts to ensure that SPOs and their conditions do not disturb this balance. While this could be taken to suggest that the courts are ensuring that the extensive reach of SPOs does not violate respondents' rights, it is unclear how SPOs are evaluated by courts more widely, as the findings are not nationally representative.

Moreover, the findings suggested that practitioners anticipated arguments against the legality of SPOs. Interestingly, some practitioners expressed surprise that SPOs had not been tested by the higher courts, with very few recalling an SPO being contested or appealed:

I don't think we're yet seeing them being challenged routinely through the higher courts, the appeal courts, and the Supreme Court *yet*. That may happen. (P2, police practitioner)

However, for some practitioners, this was a significant disadvantage. An advocate (P12) described the difficulty caused by SPOs not being tested in the higher courts:

Because they are new, relatively new orders, there is no case law on Stalking Protection Orders at all. So, it's difficult because no cases have ever been taken that far. We don't know how the higher courts, like the Court of Appeal, would deal with any of them or what their views would be in relation to them. I'm amazed that we haven't taken one that far yet, but there are no reported cases, as far as I can say, on the Stalking Protection Orders. And so yeah, it would be really good if one did get to that stage at some point, so that we could have an idea of how they are viewed by the senior courts and the judiciary.

The Court of Appeal is one of the highest courts in England and Wales, second only to the Supreme Court. The Court of Appeal is responsible for hearing appeals from other courts and tribunals, including the Crown Court. Appeals against SPOs can be brought from the Crown Court to the Court of Appeal if the respondent contests the Crown Court's decision. Appeals against SPOs can also be taken to the High Court, which exclusively deals with civil cases deemed of high value and importance. The Supreme Court is the final court of appeal for civil cases in the UK and for criminal cases in England, Wales and Northern Ireland, hearing appeals from the Court of Appeal or, in some cases, from the High Court or the Divisional Court<sup>49</sup> if a case has an arguable point of law and significant public importance.

Various civil preventive hybrid orders, including Anti-Social Behaviour Orders and Sexual Harm Prevention Orders, have been frequently challenged in the High Court and Court of Appeal to assess whether they should be constituted as penalties (Kelly, 2019b; Kelly, 2020). More recently, the Supreme Court presided over a case questioning whether the civil standard of proof for anti-social behaviour and gang injunctions (civil hybrid measures) was incompatible with the right to a fair trial.<sup>50</sup> Courts have consistently ruled that these orders are non-penal, on the grounds that the heightened safeguards typically required in criminal trials are unnecessary for proceedings involving hybrid orders (Pearson, 2006; Kelly, 2019b; Kelly, 2020). Many scholars have been critical of the courts' decision, arguing that the severe

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<sup>49</sup> A Divisional Court is not a separate court from the High Court; rather, it refers to a court sitting with at least two judges.

<sup>50</sup> *Jones v Birmingham City Council* [2023] UKSC 27

conditions imposed by hybrid orders should be considered penal under the European Convention on Human Rights (Pearson, 2006; Bakalis, 2007).

Interestingly, the Senior Courts have considered issues related to costs against the police arising from an SPO<sup>51</sup> and an application for permission to appeal a 12-month imprisonment sentence for breach of an SPO.<sup>52</sup> However, an appeal against the application of an SPO has not yet been submitted to the Senior Courts, a surprising finding given their coerciveness and the numerous appeals against hybrid orders. Nevertheless, the findings show that many practitioners appear to be aware of the controversy surrounding hybrid orders or at least recognise some aspects of SPOs that may require court testing. The need for reassurance from the courts also implies that the police and some legal practitioners lack confidence in exercising SPOs. This uncertainty and surprise at the broad powers or conditions included in SPOs strongly suggest that SPOs mark a significant expansion in state power and discretion from pre-existing measures for stalking.

Moreover, the ‘need’ for SPOs to be taken to the Court of Appeal suggests that the legality of SPOs was not sufficiently established in the consultation and parliamentary debates, confirming that Kelly’s (2020) concerns about this issue have been realised. As a result, SPOs, like other hybrid orders, have been implemented without their legitimacy being tested, placing the responsibility on respondents to appeal against these orders and ensure that they are tested in court, which is inherently problematic.

While traditional criminal laws and offences are not tested before being implemented, academics have argued that hybrid orders should be scrutinised more thoroughly. Unlike traditional criminal offences, hybrid orders are largely unregulated: they are permitted to bypass procedural safeguards and restrict respondents at the courts’ discretion. As a result,

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<sup>51</sup> Commissioner of Police of the Metropolis v Malik [2023] EWHC 3213 (Admin), [2024] 4 WLR 19.

<sup>52</sup> R v Yearwood [2024] EWCA Crim 1094, [2025] 1 Cr App R (S) 14.

hybrid orders arguably present an anomaly in traditional criminal law. Hendry (2022) has referred to this as ‘experimentation’, arguing that the state’s use of hybrid measures on respondents is largely untested and unregulated by procedural safeguards or traditional law.

Despite ongoing criticism of hybrid orders, policymakers have proven unwilling to address these concerns. Many commentators have also voiced this concern, finding that policymakers consistently fail to address many legal and practical concerns voiced about previous preventive orders and notices in new hybrid measures (Kelly, 2020; Hendry, 2022; Heap, Black and Rodgers, 2022; JUSTICE, 2023; Rodgers, 2023). In particular, the lack of adequate time for legislative scrutiny in introducing preventive hybrid orders and notices has been criticised, with many advocating for greater protection of respondents’ rights.

There are no signs that this trend will change. As numerous legal academics have pointed out, hybrid orders give the state a significant procedural advantage over traditional criminal law (Young, 2017; Kelly, 2020; Hendry, 2022). Because they are not regarded as a penalty, the state can issue hybrid orders on lower evidentiary standards, subjecting respondents to conditions similar or comparable to penalties for traditional criminal offences. Thus, if hybrid orders were classified as penalties by the courts, respondents would be granted procedural safeguards such as the criminal standard of proof, thus rendering hybrid orders little better than traditional criminal offences. Consequently, it is unlikely that policymakers will support the inclusion of procedural safeguards in current and future hybrid orders.

I now turn to findings on SPO conditions that substantially impact respondents’ rights.

### **SPO conditions that significantly impact respondents’ rights**

Throughout the interviews, practitioners discussed several elements of SPOs which they believed were particularly intrusive and in conflict with respondents’ rights. Two conditions

were identified as especially coercive: relationship requirements and indefinite SPOs. As discussed in **Chapter 5**, relationship requirements generally mandate that respondents must inform the police of new intimate relationships. This can include notifications for *all* relationships, including friendships. Indefinite SPOs are orders imposed with no fixed end date, which could, in theory, last for decades. Several practitioners implied that indefinite SPOs had been issued in rare cases, a finding which I expand on later in this section. The discussion below addresses whether using these conditions without procedural safeguards undermines the principles of criminal law and respondents' procedural rights.

### *The use of relationship requirements*

For many practitioners, including notification or relationship requirements in SPOs was seen as a significant advantage. As discussed in **Chapter 5**, this feature could require respondents to disclose their relationships, ranging from intimate connections to friendships. Supporters of these requirements often justified their use by highlighting the possibility of conducting background checks on respondents and the potential to inform individuals in their lives about any relevant criminal history. Not only does this allow respondents' intimates and/or friends to make informed decisions about their relationship, but it also assists in evidencing serial stalking. Information about new relationships can also trigger safeguarding measures to manage risk better, such as risk assessment and monitoring through multi-agency risk assessment conferences (MARACs) and/or Multi-Agency Public Protection Arrangements (MAPPAs).

A police practitioner (P4) explained how they had used the requirement in previous SPOs:

One [positive requirement] particularly that we've got on a few orders that we like to use because it offers that protection to other potential victims, is that the subject must tell us about any future relationships they [get] into so if we can evidence that this has happened before and they're serial, i.e., "when my relationship breaks down, I then carry on stalking whoever I've broken [up with]", which we did get on one recently. Because then if they tell us they're in a relationship we can obviously consider doing

disclosures on [the respondent] if you think it's necessary about that offending history, and if they don't tell us about the relationship then they basically breach so they can be arrested, but then also we can make sure we safeguard that person by telling them about the [respondent's] offending history.

However, some practitioners were mindful of how intrusive the requirements could be:

Personally, I think that's quite intrusive. I'm not saying it's a bad thing, and I'm not saying that they don't need it because of who these people are, but it amazes me that you can almost get away with it. (P16, legal practitioner)

This statement shows that some practitioners feel uncomfortable about the extent of intrusion into respondents' lives that SPOs allow. The comment, 'It amazes me that you can almost get away with it', also suggests that some practitioners are uncertain about the ethical and legal standpoint of imposing these conditions, a finding that I discuss later in the chapter.

The requirements that can be included in SPOs appear much broader than typical notification requirements for cautioned or convicted offenders, including notification of all relationships. Notification requirements are not new, as sexual, violent and terrorist offenders are subject to notification requirements after a caution or their release from prison. However, the scope of notification requirements for offenders is generally restricted to specific requirements such as providing their telephone number, details of bank accounts, vehicles to which they have access and all trips overseas (College of Policing, 2017).

This broad range of conditions is typical of hybrid orders, with courts having the power to impose specific conditions on specific cases. While it is unclear to what extent relationship requirements are used nationally, the findings suggest that this could be criticised on the grounds of what Ashworth and Zedner (2014) call 'personal criminal law'. Building on Simester and Hirsch's (2006) analysis of two-step (or hybrid) prohibitions, they argue that civil orders delegate too much power to the courts. Instead of basing conditions on local government or the legislature, courts have the power to create a list of specific conditions for each respondent if they deem them necessary and proportionate. As a result, the courts

effectively create personal penal conditions or codes that only apply to ‘certain people’ and are not equally distributed amongst members of society (Black and Heap, 2025: p.5).

Ashworth and Zedner (2014) argued that this presents a constitutional issue regarding hybrid orders, as it contradicts the traditional process for establishing law, wherein criminal offences are created through deliberations of a legislature (legislative body of a country or state) or similar authorities.

These findings on the use of relationship requirements in SPOs offer a good empirical example of personal criminal law. The failure to notify police of all relationships is not an official criminal offence. However, if the courts decide to include relationship requirements in a specific SPO, this becomes a criminal offence for *only* the respondent if they fail to notify the police and thus breach the order. Based on this argument, the use of these conditions is procedurally unfair and undermines due process.

Nevertheless, as pointed out by Nathan (2022), the potential benefits of these conditions in preventing serious harm should not be overlooked. For instance, many practitioners strongly felt that relationship requirements could play a key role in preventing further victimisation and protecting stalking victims. The findings suggested that, through disclosure of respondents’ offending history, relationship requirements could enable police to evaluate and monitor risk as well as caution current and potential future victims, thus ‘creating opportunities for us to intervene that otherwise wouldn’t have existed’ (P2, police practitioner). In disclosing respondents’ offending history, relationship requirements were also believed to disrupt and prevent serial stalking, either by evidencing serial stalking or ensuring that police could warn and safeguard all potential victims. This strongly suggests that relationship requirements can and do prevent harm.

Critics of hybrid orders have also acknowledged their potential to prevent harm (Ashworth and Zedner, 2014; JUSTICE, 2023). Although highly critical of hybrid orders, Ashworth and Zedner (2014) agreed that the level of harm prevented by an order should be considered when creating them. This argument is certainly applicable to SPOs, as research on stalking has consistently shown that there is a high risk of harm (Finn and Atkinson, 2009; Norris *et al.*, 2011; Sheridan and Roberts, 2011; Monckton Smith *et al.*, 2017; Bendlin and Sheridan, 2019; White *et al.*, 2020; Todd *et al.*, 2021). They also agreed that the evidence for a hybrid order should be based on conduct that would lead a reasonable person to anticipate ‘harm of a given kind’ (p.93). The evidential basis for SPOs is arguably similar, with SPO applications requiring proof of a risk of harm.

However, unlike Nathan (2022), Ashworth and Zedner (2014) maintained that the remit of hybrid orders must be restrained more significantly, with orders only applied as part of a criminal procedure, such as after conviction of an offence. Given the extensive reach and level of intrusion that relationship requirements and SPOs more generally involve, I argue that SPOs should be subject to more restraining principles to ensure that respondents’ rights are sufficiently protected.

I continue to consider these arguments in my discussion of the findings on indefinite SPOs, below.

### ***Indefinite ‘life’ SPOs***

The fact that SPOs can be applied indefinitely is a further element of potential conflict with the right to procedural justice and, in the case of preventive orders specifically, the right to prove that one is no longer a risk. According to statutory guidance, SPOs must be set for at least two years, but there is no upper limit on their application (Home Office, 2024c). The exception to this is interim SPOs, which are temporary and must last for a fixed duration and

cease after a full SPO is issued. Interestingly, a full order may be applied indefinitely, but specific time limits are imposed for specific prohibitions and requirements within the order, thus demonstrating a further way in which SPOs can be tailored to the specific risks posed (Home Office, 2024c). However, none of the practitioners specifically mentioned this.

Comparatively, notification requirements for cautioned and convicted offenders cannot be indefinite, because this has been deemed incompatible with Article 8 of the European Convention on Human Rights (Right to respect for private and family life), following a ruling by the UK Supreme Court in 2010. As a result, offenders can appeal against their requirements if they were previously set as indefinite. However, notification requirements can still be in force for up to 30 years, depending on respondents' age and the type of sentence.

Although comparatively more intrusive and coercive than relationship requirements, the practitioners did not voice concerns about indefinite or 'life' orders. In fact, many of the interviewees expressed support for these measures, with one advocacy practitioner (P15) stating: 'That is one of the most important things about the SPO. It can be lifelong if needed.' It appears that indefinite orders are not, at the time of writing, being imposed regularly. Over a quarter of the practitioners recalled indefinite SPOs being granted in some cases:

[...] I think it's anywhere between a year and two years to indefinite is what a Stalking Protection Order can be granted for. So, if they get an indefinite Stalking Protection Order, which doesn't often happen, I will be honest, usually, it's for a fixed amount of time. (P10, advocate)

Practitioners' experiences generally reflected this, as most found that fixed-term orders were more likely to be accepted. In some cases, SPOs had been granted for terms of 10 or 20 years. However, as Participant 15 suggests above, they can be set for much longer.

It remains unclear how common these longer-term SPOs are, indicating that they may be more prevalent in specific forces. For instance, one victim support practitioner (P8) noted several long-term SPOs in their region. Although they were cautious about describing their

use as ‘not quite like confetti’, they implied that several long-term orders had been granted when SPOs were first introduced. However, they did not indicate whether this trend had continued.

According to these practitioners, indefinite or long-term SPOs constituted a positive measure in protecting victims. While the reasons for indefinite and long-term SPOs were not expanded on, practitioners implied that they were most often used in cases of prolonged stalking. A legal practitioner (P16) gave an example in which a long-term SPO was imposed to address stalking that had continued for more than five years. Although several studies suggest that stalking typically lasts between 10 and 17 months (Björklund *et al.*, 2010; Meloy *et al.*, 2011), it can persist for many years, with one study recording a period of up to 20 years (Mullen *et al.*, 1999). Given the often-lengthy duration of stalking, it makes sense that long-term or indefinite SPOs would be used to address the most persistent cases.

There is also a compelling argument that SPOs (indefinite or otherwise) fill a gap not sufficiently covered by prosecutions or policing of stalking offences. For instance, Nathan (2022) argues that one of the potential ethical benefits that should be considered when assessing hybrid orders is the harm prevented, especially in situations where policing is challenging or prosecutions are likely to fail. The limitations of traditional law and processes compared to civil preventive orders have also been acknowledged by Ashworth and Zedner (2014). Using stalking under the Protection from Harassment Act 1997 as an example, Ashworth and Zedner (2014) recognise that traditional criminal laws and processes may be inadequate for addressing a course of conduct (repeated behaviours), due to their focus on prosecuting individual crimes one at a time. Prosecuting a single crime may not effectively address the long-term impact of the behaviour and the potential risk of harm if it continues.

Given these arguments, the coerciveness of SPOs could be justified due to the various shortcomings of traditional stalking laws and processes in adequately addressing stalking. Many issues have been identified in the policing of stalking, including unclear stalking legislation, police inaction and victim-blaming (Petch, 2002; HM Inspectorate of Constabulary and HM Crown Prosecution Service Inspectorate, 2017; Taylor-Dunn *et al.*, 2021; Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary *et al.*, 2024). In particular, the lack of sufficient protection for stalking victims has been repeatedly raised, with many reports finding that victims are not adequately protected even when stalking has been reported to police or prosecuted (Home Office, 2012; HM Inspectorate of Constabulary and HM Crown Prosecution Service Inspectorate, 2017; Suzy Lamplugh Trust, 2021c). This is an issue particularly for non-domestic stalking victims, as they were not eligible for interim protective measures such as NMOs and DVPOs, which can only be issued for intimate partners and family members (Home Office, 2015; HM Inspectorate of Constabulary and HM Crown Prosecution Service Inspectorate, 2017). As these issues were highlighted in the Home Office (2015) consultation as gaps that SPOs may be able to address, it could be argued that the coercive nature of SPOs is justified, because it offers protection for all stalking victims from the onset of an investigation.

However, I argue that the existence of long-term and indefinite SPOs contradicts the traditional model of criminal law, leading to procedurally unfair consequences for respondents. For example, the maximum sentence for the most serious stalking offence under the Protection from Harassment Act 1997 is 10 years. Under this model, offenders are sentenced according to the criminal standard of proof and serve a set amount of time in prison, during which they can apply for parole. In contrast, SPOs can be set for the same time or even longer than the maximum custodial sentence for stalking under a lower evidential and procedural standard. While the breach of an SPO does not equate to the maximum sentence

for stalking (five years), it is considerably higher than the maximum sentence for a basic stalking offence (six months imprisonment). Consequently, SPO respondents risk a considerably higher sentence for breaching an SPO than for committing most stalking offences. Furthermore, whereas custodial sentences for stalking are fixed, SPOs can impose conditions and the risk of imprisonment on respondents *indefinitely*. This indicates that Kelly's (2020) argument has merit: SPOs not only contradict traditional law by imposing indefinite restrictions on respondents, but also extend their scope beyond criminal law.

Moreover, the use of SPOs for long-term stalking raises the question of why prosecutions under traditional stalking offences are not being sought instead. Drawing from theoretical perspectives on the preventive turn, it could be suggested that some SPOs are being used as an alternative to stalking prosecutions. Many academics have argued that hybrid measures are overtaking the use of traditional criminal offences, effectively 'eroding' traditional law (Bozbayindir, 2018; Melander, 2023). A key reason for this is that hybrid orders, such as SPOs, are much easier for police and courts to issue than prosecutions, because hybrid orders do not require the heightened procedural safeguards that are mandatory for a criminal prosecution (Young, 2017; Kelly, 2020; Hendry, 2022). This has been shown to be a possibility in relation to other hybrid orders, with many stalking campaigners fearing that SPOs would follow DVPOs in being used as an alternative to prosecution (Townsend, 2020).

Similar concerns have also been expressed about the wider use of protective orders in domestic abuse cases. Although not writing from a theoretical perspective, Bates and Hester (2020) acknowledged that the increase in civil-criminal 'hybridisation' of protection orders in England and Wales created tensions between the prosecution of domestic abuse offences and the enforcement of breaches. Bates and Hester (2020) expressed consternation that the enforcement of breaches such as restraining orders and future DAPOs could overtake and downgrade criminal charges for domestic violence, a concern that was also expressed by the

CPS (2017) in their report on violence against women and girls. This is especially worrying as criminal offences incur higher penalties than breaches for hybrid orders, meaning that the protection offered to victims is significantly downgraded.

Based on this study's findings, while SPOs are not currently overtaking traditional criminal offences, it remains a possibility. Official statistics show that there were 2,600 proceedings and 1,858 convictions for stalking recorded between 2020 and 2022 (Ministry of Justice, 2025) compared to 1,769 SPOs granted during the same period. Although the interview participants often cited the criminal standard of proof for an SPO as a significant barrier to applying for one, the number of SPOs nonetheless remains comparable to the number of stalking convictions. From a theoretical perspective, the phenomenon of SPO grants and/or breaches overtaking stalking prosecutions could possibly evidence that hybrid orders are eroding or, at the very least, downgrading criminal offences (Bozbayindir, 2018; Melander, 2023), which would have significant implications for traditional criminal law and victim protection. However, more research is needed to ascertain whether the use of SPOs will overtake or has already overtaken stalking prosecutions in recent years and how this may have impacted the prosecution of stalking offences.

Another concern is the lowering of the standard of proof accepted for full SPOs. From May 2024, the Home Office guidance stated that it was 'likely' that the civil standard of proof would be accepted for both interim and full SPO applications (Home Office, 2024; Home Office and Farris, 2024). Despite this, the evidentiary standard in the Stalking Protection Act 2019 has not been changed, only specifying that interim SPOs can be made by the courts 'if it considers it appropriate to do so' and full SPOs if 'necessary to protect another person'. Consequently, it is still ultimately the courts' responsibility to interpret and apply the appropriate standard of proof.

Nonetheless, it is highly probable that courts will apply the civil standard of proof in SPO applications. Hybrid orders generally accept the civil standard of proof (Ashworth and Zedner, 2014; Carvalho, 2017; Nathan, 2022; Rodgers, 2023), aligning SPOs with general practice. Furthermore, recent court decisions on similar civil hybrid measures suggest that the use of the civil standard of proof is unlikely to change in the near future. For example, in 2023, Supreme Court judges ruled that injunctions for anti-social behaviour and gang-related violence did not require the criminal standard of proof and that the use of the civil standard of proof did not counter the right to a fair trial under the European Convention on Human Rights.<sup>53</sup> As a result, the courts are likely to take this judgment into account when considering the standard of proof for SPO applications.

While the study's findings support existing research indicating that the criminal standard of proof was a barrier to SPO applications (HM Inspectorate of Constabulary *et al.*, 2024; Home Office and Farris, 2024), the lowering of the threshold to a civil standard of proof has significant implications beyond making it easier to obtain an SPO.<sup>54</sup> As the criminal standard of proof was one of the only procedural safeguards available to respondents, the lowering of the standard of proof presents a serious loss of legal protection for respondents. Now, not only can respondents be subject to an SPO without having committed a stalking offence under the Protection from Harassment Act 1997, but also at a considerably lower evidentiary standard. As a result, the change of the standard of proof only aggravates the issues of procedural unfairness and proportionality posed by SPOs.

Moreover, it could be argued that the existence of indefinite and long-term SPOs appears to counter the Home Office's aim of preventing stalking in the early stages (Home Office,

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<sup>53</sup> Jones v Birmingham City Council [2023] UKSC 27

<sup>54</sup> See **Chapter 5** for more detail on how the lower civil standard of proof affects SPO proceedings and evidence gathering.

2015). During the consultation on SPOs, the Home Office (2015) indicated that SPOs could help bridge an essential gap in the policing of stalking. The Home Office (2015) stated that the challenges faced by police in meeting the required standard of proof for stalking offences, along with the lengthy process before prosecution begins, mean that interventions in cases of stalking can take a significant amount of time. The Home Office (2015) reasoned that during this time, stalkers could become more obsessed with their victims, thus further entrenching stalking behaviours. SPOs were introduced in part to enable the criminal justice system to intervene to prevent stalking from escalating during the time that elapses between a police report being filed and the conclusion of a criminal trial. For example, positive requirements such as intervention programmes are also intended to manage and deter perpetrators before they become 'entrenched in their fixation' (Home Office, 2015).

The use of long-term SPOs also indicates that SPOs are also being used to tackle long-term or 'entrenched' stalking, which were not the kind of cases envisioned in the original Home Office (2015) consultation. This suggests that the consultation did not fully consider and clarify the circumstances in which SPOs could and should be used. While the consultation clearly states that SPOs can close a gap 'in measures available to protect victims of "stranger stalking" in particular and to intervene early with these perpetrators,' it does not specify what behaviours should initiate an SPO application (Kelly, 2020). Given that SPOs are intended to police early or general stalking behaviour that is not applicable to a stalking offence, this lack of clarification creates significant difficulty in identifying when SPOs should be used. As a result, the use of SPOs for long-term stalking may suggest that the consultation did not make the purpose of SPOs clear enough for police, leading police to use them in stalking cases more generally.

Nonetheless, this does not necessarily suggest that long-term and indefinite SPOs *cannot* facilitate early intervention or rehabilitation. Although the practitioners did not specify

whether indefinite or long-term SPOs had been used for the purpose of early intervention, there is no evidence to suggest that they cannot be put in place during the early stages of stalking. As SPOs can be applied for without a stalking offence being committed, it is possible that indefinite or long-term SPOs can be and have been granted in cases of early stalking behaviour as a means of prevention and protection. In theory, indefinite SPOs could be put in place with positive requirements, such as an intervention programme, and then repealed at a later date if the respondent shows improvement in their behaviour. Therefore, indefinite and long-term SPOs may not necessarily counter the Home Office (2015) consultation or the intended purpose of early intervention.

The prevalence of prohibitive conditions over positive requirements in SPOs also indicates that there is a greater emphasis on restricting respondents rather than rehabilitating them. As mentioned in **Chapter 5**, several practitioners noted that positive requirements were used less frequently than prohibitions. This was particularly true for intervention programmes, which were often described as being unavailable in practitioners' local areas. Official reports have also found comparable results (Suzy Lamplugh Trust, 2022; Home Office and HM Courts and Tribunals Service, 2023b; HM Inspectorate of Constabulary *et al.*, 2024), indicating that an emphasis on prohibitions is general practice when utilising SPOs. Insights from the interview participants corroborate these findings, with many practitioners reporting that SPOs worked better as a measure for managing respondents rather than deterring them.<sup>55</sup>

Although the management of SPO respondents has positive implications for victim protection, this remains contrary to traditional law. Whereas prohibitions imposed in a criminal trial are subject to various procedural safeguards, SPOs are not, especially at the stage at which the courts are determining which conditions should be used. As a result, SPO

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<sup>55</sup> See **Chapter 5** for findings on the preventive power of SPOs.

respondents are subject to highly coercive conditions based on lower evidential standards and with little opportunity to oppose these conditions. Furthermore, the emphasis on prohibitions means that SPOs function more as a punitive measure than a preventive one. Not only does this contradict the purpose of a preventive order, but it also limits the opportunities to rehabilitate and prevent stalkers from escalating their behaviour and the level of risk to victims.

Overall, the findings in this study indicate that SPOs allow considerable scope for infringing on respondents' rights. Practitioners' concerns about balancing respondents' rights with victim protection and legal scrutiny strongly suggest that SPOs constitute a sizeable expansion of state power, marking a significant departure from previous stalking measures. Consequently, the risk of SPO respondents being impacted by procedurally unfair measures is substantial and warrants further investigation to ensure that SPOs are not restricting respondents' privacy and freedom of movement disproportionately.

Nevertheless, it should be acknowledged that SPOs also have considerable potential to protect vulnerable victims of stalking. In accordance with existing reports (Thomason, 2022; Suzy Lamplugh Trust, 2022; Home Office and HM Courts and Tribunals Service, 2023b; HM Inspectorate of Constabulary *et al.*, 2024), the study's findings strongly indicate that SPOs can protect victims of stalking and prevent further stalking when used appropriately. However, despite five years having passed since their introduction, it is still unclear how effective SPOs are and whether they have been largely successful. While this study has built on and added valuable insights to existing research on the use and opinions of SPOs within the criminal justice system, data on SPOs remains sparse, as official data on SPOs has not been updated since 2023 (Home Office and HM Courts and Tribunals Service, 2023b). The lack of published data is a consistent issue with hybrid orders, leading to difficulties in measuring the precise 'effectiveness' of these orders (JUSTICE, 2023; Rodgers, 2023). This

includes a lack of sufficient guidance or criteria to determine whether orders are working successfully, including SPOs.

Therefore, I argue that more needs to be done to ensure that hybrid orders are working effectively and in a way that ensures that orders are proportionate and fair. To achieve this objective, I recommend that the legality of hybrid orders should be more carefully scrutinised during the drafting and consultation stages. I also propose that a mechanism be created to monitor and evaluate the effectiveness of SPOs and, indeed, all hybrid orders. I expand on these recommendations below in my summary of the key findings, research, and policy recommendations.

## **Chapter overview**

### **Summary**

Insights from the practitioner interviews indicated that there is significant tension between SPOs and the traditional model of criminal law. Although the practitioners were largely supportive of SPOs and their conditions, several felt that some aspects could be potentially unfair or disproportionate to respondents. In particular, the findings suggested that the tailoring of conditions in SPOs has the scope to violate respondents' rights. I identified relationship requirements as an especially intrusive condition, compelling respondents to potentially disclose all their close relationships. I also explored the use of indefinite SPOs, which could be set for decades or even 'life'. While both conditions were regarded as important tools in protecting victims, I raised a series of objections to these measures.

Balancing perspectives on the preventive turn in criminal law and hybrid orders, I argued that the lack of procedural safeguards, such as the criminal standard of proof, in applying SPOs

meant that the restrictions on respondents' privacy and freedom are disproportionate and procedurally unfair.

The findings also showed that some police and legal practitioners were uncertain about how to exercise SPOs and sought reassurance from the courts. These findings indicate that police and legal practitioners are not confident about balancing the conditions in SPOs with respondents' rights. This strongly suggests that SPOs have significantly expanded state power, interfering with respondents' rights in ways not seen in relation to previous stalking measures. These findings have significant implications for future hybrid orders, including DAPOs.

From these findings, I made a series of research and policy recommendations to address the imbalance between SPOs and respondents' rights, which I explore below.

### **Recommendations**

A key policy recommendation for SPOs and future civil preventive hybrid orders is for more thorough legislative scrutiny during the drafting and consultation stages. Research shows that hybrid orders have been introduced repeatedly without proper consideration of the implications of using coercive measures in criminal law (Ashworth and Zedner, 2014; Kelly, 2020; Hendry, 2022; Rodgers, 2023). SPOs are no exception; the study's findings evidence several areas of concern identified by Kelly (2020), including procedural fairness and proportionality. Rodgers (2023) proposed that the Joint Committee on Human Rights should participate in the legislative scrutiny of future preventive orders. This is a welcome suggestion that would do more to protect respondents' rights and ensure that orders are proportionate.

Moreover, there should be a recording mechanism for SPOs. As discussed in **Chapter 4**, no system currently exists to measure and gather data on SPOs or other protective measures (HM Inspectorate of Constabulary *et al.*, 2022; JUSTICE, 2023; Rodgers, 2023; HM Inspectorate of Constabulary *et al.*, 2024). This created significant difficulty in interpreting and analysing the FOI data on SPOs, because police forces used different methods of data collection and categorisation. Consequently, the study's findings support recommendations to collect data on civil preventive orders and notices, including SPOs, to assess their effectiveness (HM Inspectorate of Constabulary *et al.*, 2022; JUSTICE, 2023; Rodgers, 2023; HM Inspectorate of Constabulary *et al.*, 2024). Such a collection of data would also allow the impact of hybrid orders to be fully understood, thus identifying potential discriminatory or disproportionate practices associated with the use of orders. This could be done in various ways. For instance, Rodgers (2023) proposed that data on civil preventive orders and notices could be submitted to the central government annually, which would require police forces to maintain this data. It would also contribute towards a mechanism for evaluating the effectiveness of hybrid orders, allowing the state to assess whether they prevent certain types of behaviour and protect victims.

Further empirical research on SPOs is therefore essential. Specifically, there is a need to study how SPOs impact respondents' rights. Currently, it is not known what restrictions or positive requirements are being imposed on whom, for how long, and with what effects on respondents and victims. The effects of specific conditions imposed by SPOs, particularly indefinite SPOs, should therefore be analysed. This recommendation applies to all civil preventive hybrid orders, for which there is currently a significant research gap, despite the widespread acknowledgement of the legal and practical problems that hybrid orders can cause (Ashworth and Zedner, 2014; Bozbayindir, 2018; Kelly, 2020; Hendry, 2022; Rodgers, 2023).

I also recommend that qualitative research be conducted to investigate the perspectives of victims, respondents, practitioners, policymakers, and the public regarding SPOs and other civil preventive hybrid orders. Additionally, in the absence of official reports, collecting quantitative data on the number of hybrid orders applied for, granted, and breached would be a valuable contribution. However, this data may be limited due to variations in recording practices across law enforcement agencies or restricted access to data.

Lastly, research should be undertaken to discover whether SPOs are resulting in a downgrading of criminal charges for stalking. Findings from this study and other studies on hybrid orders (CPS, 2017; Bates and Hester, 2020) suggest that SPOs could be increasingly used over criminal charges for stalking, a concern expressed by various stalking campaigners (Townsend, 2020). Quantitative research on the number of SPOs granted since 2022 and stalking criminal proceedings and convictions would provide much-needed insight into whether the number of SPOs has overtaken or will overtake stalking prosecutions. However, again, this data may be restricted by variations in what information is recorded or access issues. It would also be beneficial to conduct qualitative research into practitioners' and victims' views on whether there is a preference for using SPOs over criminal charges and, if so, how this impacts victim protection. Given concerns that DVPOs have been reducing and downgrading criminal charges for domestic abuse (CPS, 2017; Townsend, 2020; Bates and Hester, 2020), this research could also be conducted on DAPOs to see if this trend has continued.

### **Limitations**

A notable limitation of the study is its sample size. Accessing specific population sectors, such as police officers and legal practitioners, proved challenging, making it difficult to

recruit interview participants. As a result, only 17 participants were included in the sample. Additionally, some sectors are underrepresented; for example, only two legal practitioners and three victim support practitioners participated. This led to greater representation of the perspectives of police officers and advocates. Lastly, the sample is not nationally representative, because practitioners from London, Yorkshire and the Humber, West Midlands and Wales are absent.

Nevertheless, the study's findings reached theoretical saturation, offering insights into national practices associated with SPOs and enabling broader conclusions. Additionally, the findings effectively illustrate standard practices related to the use of SPOs and reflect practitioners' perspectives. As a result, the sample size did not significantly limit the study's findings.

## **Conclusion**

This chapter analysed findings from the practitioner interviews to determine what can be learnt from the implementation of SPOs about the evolution of the preventive turn in criminal law and policing. SPOs have emerged as a trend in the preventive approach to criminal law, evidencing a continuation in using civil preventive hybrid measures to tackle complex policy challenges. The findings indicated that there is significant tension between implementing SPOs and upholding respondents' rights, with several practitioners expressing discomfort and uncertainty about exercising certain conditions without compromising those rights. Specific conditions were noted to be highly coercive and potentially disproportionate, including relationship requirements and indefinite or long-term SPOs. Practitioners working in the police and legal services also described seeking assurance from the courts on the use of SPOs and their conditions. Overall, the findings strongly suggested that the scope of SPOs to

violate respondents' rights is significantly greater than that of pre-existing stalking measures, presenting a serious concern for procedural fairness and due process.

The following and concluding chapter reviews the statistical findings on SPOs and insights from practitioner interviews to explore the implications for policy and research.

## **Chapter 7: Conclusion**

This study undertook the most comprehensive empirical analysis of the use of SPOs by the criminal justice system in England and Wales to date. It examined the use of SPOs by the police and courts and determined their effectiveness in addressing stalking cases. It also identified the challenges associated with implementing SPOs and highlighted best practices in regard to their application. The findings suggested that while SPOs are widely regarded as a useful tool in protecting stalking victims and managing respondents, several barriers prevent SPOs from being implemented more widely. From these findings, I recommended a series of changes intended to improve the uptake of SPOs, including increased training and provision for stalking-specific intervention programmes.

This study also explored the practitioner interviews to assess the implications of SPOs within the preventive turn in criminal law. SPOs are emerging as civil measures with which to address complex policy issues, but their implementation raises significant concerns about violating respondents' rights. The practitioners reported discomfort regarding coercive conditions, such as relationship requirements and the lengthy durations of some SPOs and sought reassurance from the courts on these measures. Overall, the findings suggested that SPOs may infringe more on human rights than prior stalking measures, raising serious concerns regarding procedural fairness and due process.

The practitioners also indicated that there is considerable tension between the traditional model of criminal law and SPOs, as the broad tailoring of conditions raised concerns about striking the right balance between victim protection and respondents' rights. Using preventive justice theory, I argued that this showed the continuation of a problematic policy trend in which hybridised civil preventive orders – civil orders which carry criminal penalties – circumvent traditional criminal processes, thereby extending the coercive power of the state. In response, I recommended that future hybrid orders, such as SPOs, undergo more legal

scrutiny to ensure that orders are proportionate and protect respondents' rights. I further suggested conducting more empirical research on the potential impact of SPOs, especially regarding coercive conditions. Lastly, I advised that the government should create a recording mechanism for hybrid orders to evaluate the efficacy of orders and their impact on respondents.

I now turn to a summary of the study's findings and implications for policy and research.

### **Summary of the findings**

The study focused on the following research questions:

- How are Stalking Protection Orders being implemented across the criminal justice system?
- How does the introduction of SPOs contribute to the police's ability to tackle stalking, and what are the challenges to their implementation?
- What can we learn from the implementation of SPOs about the evolution of the preventive turn in criminal law/policing?

By employing a mixed-methods approach that includes descriptive statistics on SPOs and insights gained from the practitioner interviews, the study revealed several key findings regarding the use of SPOs by the police and courts. The following findings summarise the use of SPOs nationwide, the key benefits and challenges involved in their implementation and the implications for theory on preventive justice and the preventive turn in criminal law.

### **SPOs as a beneficial tool for tackling stalking when implemented appropriately**

The study found that practitioners are confident that SPOs *can* effectively protect stalking victims and manage respondents *if* implemented appropriately. For most practitioners, incorporating positive requirements (conditions that compel respondents to do a specific action) instead of just prohibitions (conditions that prevent respondents from doing a particular action) constituted a significant advantage in creatively addressing stalking.

Two positive requirements that practitioners identified as especially useful were relationship requirements and intervention programmes. Practitioners found these conditions beneficial for managing respondents and safeguarding victims by reducing the risk of reoffending and future victimisation. With regard to relationship requirements, this was achieved by allowing the police to submit Domestic Violence Disclosure Schemes on respondents, thus revealing respondents' criminal histories so that police could warn the victim or put other safeguarding measures in place. The practitioners also saw requiring respondents to attend intervention programmes on stalking and/or substance use as an important measure in terms of potentially rehabilitating respondents and preventing future victimisation. Additionally, the penalty of five years' imprisonment for breaching SPOs was viewed as a valuable aspect of these orders. Despite limited evidence that imprisonment functioned effectively as a deterrent, the practitioners believed that it effectively managed and restricted offenders, thereby protecting victims and enhancing their safety.

Another element of SPOs regarded as valuable was the availability of short-term interim orders. As interim SPOs also carry a criminal penalty for breaching them and can include prohibitions and positive requirements, many practitioners viewed them as being equally protective as full SPOs. While interim SPOs can be used as a quick intervention in high-risk cases and as a protective buffer between hearings for full SPOs, the findings strongly indicated that interim SPOs were mainly used for the latter purpose. Given that the findings

of this study and existing reports on SPOs showed that delays in court hearings could be substantial (Suzy Lamplugh Trust, 2022; Home Office and HM Courts and Tribunals Service, 2023b; HM Inspectorate of Constabulary *et al.*, 2024), it is significant that interim SPOs cover an important gap in protection for victims until a full SPO can be granted. However, largely due to these delays, interim SPOs often fail to give immediate protection to victims, leaving them at risk of harm for several months until the initial court hearing is heard in some cases. To address this gap in protection, I recommended that a stalking protection notice be added to SPOs, a point that I expand on later in the chapter.

In practice, many practitioners faced significant barriers in using SPOs, meaning that the full range of potential benefits is rarely realised in reality. I discuss these barriers below.

### **Barriers to SPOs that are indicative of systemic issues in the criminal justice system and poor policymaking**

One of the most significant barriers to utilising SPOs was the inadequate knowledge and understanding of SPOs among the police and in the courts. This was often linked to insufficient training on SPOs, particularly in the courts, which were frequently said to lack any training or guidance on SPOs. Around half of the practitioners indicated that they had received no training on SPOs, and several reported that there was a significant lack of training in the courts. The need for training has also been identified in official reports, with the review on SPOs highlighting that practitioners in the legal sector needed training on SPOs (Home Office and HM Courts and Tribunals Service, 2023b; HM Inspectorate of Constabulary *et al.*, 2024). These findings indicate that the government has failed to establish sufficient training and guidance regimes for police and courts, thus contributing to the lack of knowledge about SPOs.

Due to this lack of knowledge, police and courts usually opted for less appropriate or stringent criminal justice measures with which they were more familiar, such as non-molestation orders (NMOs) or restraining orders. Many practitioners argued that this preference for pre-existing measures over SPOs was detrimental, as these measures were often not applicable in many stalking cases: for instance, NMOs are only applicable to domestic abuse cases and restraining orders are only available after conviction. Moreover, the practitioners argued that pre-existing measures were much weaker than SPOs, pointing out that many measures did not include positive requirements or carry a criminal penalty for breaching them. Consequently, the practitioners felt that the use of pre-existing measures over SPOs missed opportunities to potentially rehabilitate respondents through positive requirements or protect victims by imprisoning respondents who breached their SPO.

Insufficient knowledge about SPOs was often associated with a general lack of understanding of stalking. Poor identification and understanding of stalking have long been an issue in policing, with researchers and official reports consistently finding that the police and courts struggle to understand stalking and the risks associated with it (Her Majesty's Inspectorate of Constabulary and Her Majesty's Crown Prosecution Service Inspectorate, 2017; Worsley *et al.*, 2017; Suzy Lamplugh Trust, 2021c; Taylor-Dunn *et al.*, 2021). The findings strongly indicated that these issues are still prevalent, with many practitioners asserting that the police's limited knowledge and identification of stalking considerably hindered the use of SPOs overall, a finding also echoed in the stalking super-complaint report (Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary *et al.*, 2024). This represents a significant missed opportunity to protect victims, meaning that victims are denied the appropriate protection or, potentially, any protection from stalking.

The practitioners' insights also revealed that there was a significant lack of stalking intervention programmes. While general intervention programmes for domestic abuse and

general offending were more readily available, many practitioners felt that these were often inappropriate for stalkers or, in some cases, escalated their obsession. These findings were echoed in the super-complaint report, which found stalking-specific intervention programmes to be few and far between (HM Inspectorate of Constabulary *et al.*, 2024). As a result, many forces were denied the opportunity to require respondents to attend these programmes, an important step that could have helped to rehabilitate respondents or decreased the risk of reoffending. This suggests that, contrary to policymakers' claims, SPOs do not manage and deter perpetrators before stalking becomes 'entrenched', partly because provisions were not made to ensure that stalking intervention programmes were nationally available to do this.

Several substantial issues related to the SPO application process also suggested that policymakers had not considered how SPOs would function in practice. Practitioners often described the application process as bureaucratic and time-consuming, leading to frequent delays. Evidence gathering and the wait for court hearings typically caused these delays. The criminal standard of proof accepted for full SPOs<sup>56</sup> contributed to the difficulties in evidence gathering in many cases, with the police finding it difficult to meet the necessary standard of proof for full SPOs. These factors often meant that police would actively avoid applying for an SPO and were more likely to opt for a comparatively weaker or inappropriate protective measure.

Additionally, some practitioners found that having to meet the criminal standard of proof caused conflicts between collecting evidence for SPOs and pursuing criminal stalking prosecutions. Given that the super-complaint report also identified these issues (Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary *et al.*, 2024), the evidence strongly suggests that they frequently constitute barriers to applying for SPOs. Consequently, the

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<sup>56</sup> From May 2024, the standard of proof for interim and full SPOs was lowered to the civil standard of proof (balance of probabilities).

likelihood that SPOs could be put in place to address stalking before an escalation or conviction (if at all) is minimal. This suggests that policymakers did not consider how the evidence gathering required for an SPO and the widely acknowledged backlog in the magistrates' and Crown Courts (Sturge, 2025) would impact SPOs' effectiveness as an early intervention tool. Clashes between SPOs and stalking investigations further signify that consideration was not given to how SPOs would work alongside stalking prosecutions, especially regarding the criminal standard of proof accepted for full SPOs.

Despite these issues, it is evident that these barriers did not impact all forces equally.

According to the FOI data findings, certain forces/counties used significantly more SPOs than the majority of forces. Although the rate of SPOs differed slightly depending on the population within each force's area and the number of stalking incidents, forces such as Sussex, Kent, Surrey and British Transport Police had consistently higher rates of SPOs.

While their use of SPOs may still be considered low in comparison to orders such as restraining orders and Domestic Violence Protection Notices/Orders, these findings strongly indicate that the SPO application process is considerably easier or, at least, more streamlined in these forces. The practitioners' insights suggest that a lack of resources in many forces, including dedicated roles for dealing with stalking and SPOs and in-house legal services, impacted their ability to apply for SPOs consistently.

The issues outlined above indicate that systemic flaws in the criminal justice system and inadequate policymaking have significantly hindered the effective implementation of SPOs. While SPOs evidently can be a valuable tool in addressing stalking, they cannot effectively enhance policing of stalking without significant systemic changes being implemented in the police and courts.

### **SPOs and tensions between traditional criminal law**

Using preventive justice theory as an analytical framework, an analysis of the interview findings revealed significant tension between the implementation of SPOs and the traditional model of criminal law. While the vast majority of practitioners were supportive of SPOs and their conditions, several expressed concerns over balancing respondents' human rights with victim protection. In particular, the tailoring of conditions allows for significant restrictions to be placed on respondents and intrusions into their lives, strongly suggesting that SPOs could be used to violate their rights. Drawing heavily on Ashworth and Zedner's (2014) preventive justice approach, I argued that while there are opportunities for victim protection, the implementation of these conditions contradicts traditional criminal law and is procedurally unfair due to the absence of safeguards for respondents at the time when they are initially imposed. Pointing to research on similar preventive measures (Heap, Black and Rodgers, 2022; Hendry, 2022), I also maintained that the broad scope of SPOs raises the likelihood that respondents could be disproportionately restricted beyond the specific incident that triggered the SPO. This concern is heightened by the low standard of proof for SPOs, which does not require respondents to have committed a stalking offence.

Some conditions were identified as being more intrusive or disproportionate than others. For instance, some practitioners expressed discomfort with the level of intrusion that relationship requirements enabled, compelling respondents to potentially disclose *all* their close relationships. I objected to these requirements on a constitutional basis, arguing that they highlighted the law being applied unequally by the courts. Furthermore, I argued that relationship requirements constituted empirical evidence of 'personal criminal law' (Ashworth and Zedner, 2014), wherein specific conditions are applied by the courts and made into a criminal offence only for specific respondents.

The findings also indicated that indefinite, long-term or even ‘life’ SPOs were regularly applied to respondents. For most, if not all, the practitioners, these measures were regarded as a significant advantage of SPOs, allowing victims to be protected for as long as necessary. However, I argued that the existence of indefinite SPOs challenges due process by creating unfair procedural consequences for respondents. Unlike the set custodial sentences for stalking offences, SPOs can potentially last for decades, meaning that respondents can be subject to various conditions and the threat of imprisonment indefinitely. I also questioned why long-term SPOs were used instead of criminal charges for stalking, referencing research on similar preventive orders, which suggests that SPOs may diminish the significance of criminal charges in the future (CPS, 2017; Townsend, 2020; Bates and Hester, 2020). The reliance on SPOs as an alternative poses a serious concern, as it may lead to fewer charges being brought for stalking. Stalking offences typically carry more severe penalties, which in turn offer greater protection for victims.

Regarding legal scrutiny of SPOs, several police and legal practitioners admitted to seeking reassurance from the courts in terms of how to exercise SPOs proportionately. Although some courts scrutinised SPOs very carefully, others were described as more relaxed, indicating that the level of scrutiny that SPOs receive varies significantly between courts. To some practitioners' surprise, SPOs have not been ‘tested’ in the higher courts such as the Court of Appeal or Supreme Court. For some practitioners, this posed a major difficulty in determining how courts viewed SPOs and how they would be dealt with, suggesting that they anticipate legal issues arising concerning the proportionality of SPOs.

These findings strongly indicate that SPOs infringe on respondents’ rights more than pre-existing measures for stalking, thus demonstrating a concerning expansion of state power. This infringement raises questions about the procedural fairness of SPOs and the preservation of due process, echoing criticisms of hybrid orders more generally (Crawford, 2009;

Ashworth and Zedner, 2014; Young, 2017; Hendry and King, 2017; Kelly, 2020; Heap, Black and Rodgers, 2022; JUSTICE, 2023; Rodgers, 2023; Melander, 2023).

I will now address the conflicting positions between theoretical and criminal justice perspectives on SPOs.

### **Conflict between theoretical and criminal justice perspectives on SPOs**

Throughout the analysis of the study's findings, two conflicting perspectives or 'realities' regarding SPOs emerged. As discussed earlier in the chapter, the practitioner interviews largely agreed that SPOs could effectively protect stalking victims and manage respondents, indicating that SPOs can serve as an important criminal justice tool for tackling stalking when appropriately implemented. However, analysis of these findings through the lens of preventive justice theory casts significant doubt on their legitimacy as a legal measure.

Approaching from this theoretical perspective, I argued that SPOs are disproportionate and infringe respondents' rights, with specific conditions proving particularly intrusive.

The conflict between the utility of hybrid orders as a criminal justice tool and as a constitutional and conceptual measure has also been identified by other theorists. For instance, during my analysis of the interview findings in **Chapter 6**, I drew on Nathan's (2022) arguments that the theoretical perspective on preventive orders should be more balanced, taking into account all the ethical benefits and burdens. Although acknowledging that preventive orders could infringe on respondents' rights, Nathan (2022) contended that the potential harm to respondents could ultimately be justified by the harm prevented, especially in cases of serious harm.

The study's findings certainly provide substantial evidence for this view. Despite some practitioners' concerns about balancing respondents' rights, most interview participants held

positive views of SPOs regarding their potential to protect stalking victims. In fact, many practitioners were strongly supportive of SPO conditions identified as theoretically and legally problematic, with relationship requirements said to be able to play a key role in preventing further stalking victimisation and protecting stalking victims.

Moreover, Nathan (2022) asserted that preventive orders could prevent harm in cases where prosecutions often fail or take place too late. This argument is especially relevant to SPOs, with stalking cases often failing to reach prosecution (HM Inspectorate of Constabulary and HM Crown Prosecution Service Inspectorate, 2017; Taylor-Dunn et al., 2018; Taylor-Dunn et al., 2021; Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary et al., 2024). As SPOs can be put in place before a prosecution or when evidence is insufficient for one, they could fill this important gap in victim protection. Given the risk of serious harm and homicide associated with stalking (Monckton Smith et al., 2017; Bendlin and Sheridan, 2019; Todd et al., 2021), an argument could be made that SPOs are justifiable due to the level of harm that can be averted.

However, despite the ethical benefits of SPOs, I concluded that they remain unjustifiable on theoretical and constitutional grounds. Although theorists critical of hybrid orders accept that orders can prevent harm, many argue that they should still be subject to restraining principles to ensure that the rights of respondents (Ashworth and Zedner, 2014; JUSTICE, 2023). In particular, Ashworth and Zedner (2014) maintained that hybrid orders should be applied only as part of a criminal procedure, with conditions included in orders treated as criminal offences, so that all procedural safeguards are available to respondents. Therefore, from the perspective of preventive justice theory, the potential benefits to victim protection do not justify circumventing traditional criminal law.

Nonetheless, despite SPOs functioning as a dubious legal measure, the study's findings clearly demonstrate that they can provide much-needed relief to victims at risk of serious harm. As evidenced in the findings and official reports (Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary et al., 2024), criminal justice responses to stalking continue to fall short for victims, with traditional criminal prosecutions of stalking offences succeeding in very few cases. Given these significant gaps in policing, it is essential that a protective measure is in place to protect victims until substantial changes are made to facilitate traditional criminal avenues for stalking.

Moreover, while the government has committed to accepting or partially accepting recommendations for reforming stalking legislation (Home Office et al., 2024), there is no evidence to suggest that SPOs will be repealed any time soon. In fact, the Home Office has made numerous efforts to ease the process for SPO applications, revising statutory guidance to lower the accepted standard of proof (Home Office and Farris, 2024). As such, it is likely that the government will continue to promote SPOs as a key tool in addressing stalking, regardless of any legal controversy. Therefore, I conclude SPOs are a necessary tool to address stalking and safeguard victims, given the lack of viable alternatives within traditional criminal law.

I will now provide an overview of the theoretical contribution the study makes by exploring how its findings advance preventive justice theory and the implications for the preventive turn in criminal law.

### **Theoretical contribution**

This study makes an important contribution to the literature on preventive justice, the preventive turn in criminal law and preventive orders. By drawing on preventive justice

theory, the analysis of the findings provided a thorough examination and understanding of the legal and practical implications of SPOs. Building on preventive justice research and frameworks, the findings showed that the hybridisation of preventive measures with criminal penalties, characteristic of the preventive turn, remains a common policy used by policymakers to tackle criminal issues, with SPOs being a recent example.

Practitioner insights into the scope and exercise of SPOs showed that tensions between the traditional 'liberal model of criminal law' (Ashworth and Zedner, 2014) and preventive policy directly manifest in the implementation of hybrid orders, especially in trying to balance respondents' human rights with victim protection. By utilising theoretical perspectives and addressing criticisms, concerns were identified regarding the broad scope and customisation of conditions, which suggested a potential violation of respondents' rights that could subject them to unfair procedural consequences. This allowed for a nuanced perspective on SPOs, weighing the necessity of highly coercive measures such as relationship requirements and indefinite SPOs for victim protection against concerns about disproportionality and breach of due process.

Furthermore, the study's findings provide much-needed empirical evidence for theories on the preventive turn. Despite widespread criticism of hybrid orders and the increase in preventive measures as a solution to issues within the criminal justice system (Ashworth and Zedner, 2014; Bozbayindir, 2018; Kelly, 2020; Melander, 2023), empirical research remains sparse (Rodgers, 2023). Consequently, this study makes a unique contribution by evidencing tensions between preventive policy and traditional criminal law in theory *and* in practice.

Lastly, the findings have significant implications for future preventive measures and policy. An analysis of the study's findings suggests that constitutional criticisms of hybrid orders, such as the evasion of procedural safeguards for respondents and the use of highly coercive

conditions (Crawford, 2009; Ashworth and Zedner, 2014; Young, 2017; Hendry and King, 2017; Kelly, 2020; JUSTICE, 2023; Melander, 2023) remain significant issues in regard to the implementation of SPOs. Given that hybrid orders continue to be used by the state, the tensions between criminal law and SPOs can shed light on how these issues may arise in orders such as Domestic Abuse Protection Notices and Orders (DAPNs and DAPOs) and the potential impact on respondents. I now discuss the specific implications of these findings for policy in further detail.

### **Implications for policy and practice**

Based on the study findings, I made several policy and practice recommendations relating to SPOs. One key recommendation is the need for a more consistent national approach to collecting data on SPOs. Data collection and analysis of descriptive statistics obtained from FOI requests and official statistics on SPOs revealed that data availability varies considerably between forces. In the FOI requests, this was often due to the different procedures that forces used for SPOs. Consequently, it would be beneficial for SPO application procedures and data collection to be standardised so that a national database on SPOs can be established. This recommendation was also made in the stalking super-complaint report, which advised that the number of interim and full SPOs applied for, granted, and breached should be routinely published within criminal court statistics (HM Inspectorate of Constabulary *et al.*, 2024). This would allow the use of SPOs to be more easily tracked and could potentially indicate what impact SPOs are having on the policing of stalking.

This recommendation also applies more broadly to civil preventive orders and notices, as research shows that data on protective measures and hybrid orders are currently limited (HM Inspectorate of Constabulary *et al.*, 2022; Rodgers, 2023). This approach is especially

pertinent for the national release of DAPOs, as it offers the opportunity to assess the implementation and effectiveness of these orders at an early stage in their use.

Another major recommendation is that there should be more training on SPOs and how to apply for them. This is particularly crucial for the courts, as many practitioners reported a significant lack of training and understanding regarding SPOs. While there is existing statutory guidance on SPOs for police and online resources available, many police officers and legal practitioners reported that they had not received any training on SPOs. Some practitioners suggested that in-person training on SPOs should be more widely used, as opposed to the usual online training, to enhance engagement and efficiency. These changes would be key in increasing practitioners' knowledge and understanding of SPOs and would most likely encourage the wider use of them.

Another key recommendation is to streamline the SPO application process. For many practitioners, the lengthy and bureaucratic process created a significant barrier to using SPOs, with the criminal standard of proof accepted for full SPOs often complicating matters. Although the standard of proof for full SPOs has since been lowered to the civil standard, this may still pose an issue, as courts are only 'likely' to accept this (Home Office and Farris, 2024). Consequently, policymakers should investigate whether the application process for SPOs can be modified to simplify it for the police and courts so that victims can receive protection quickly.

A measure that may assist victims in receiving protection quickly is a stalking protection notice. Although interim SPOs act as a short-term measure in between court hearings or in high-risk stalking cases, the process of applying for interim SPOs is often as bureaucratic and slow as applying for full SPOs. The super-complaint report produced similar findings and recommended the creation of a stalking protection notice to protect victims before an interim

or full SPO application is made (HM Inspectorate of Constabulary *et al.*, 2024). By aligning SPOs more closely with measures such as DAPOs and DAPNs, a stalking protection notice could be authorised by a senior police officer following a stalking incident, prohibiting respondents from approaching victims immediately. Violating the notice would also become an arrestable offence, ensuring that victims are protected from further offending. Although this measure would be less effective in cases where police have not identified stalking, a stalking protection notice would protect victims much more quickly where police have identified stalking and started an application for an SPO.

Funding should be allocated to establish more national stalking intervention programmes. While they were overwhelmingly supportive of the provision of intervention programmes, many practitioners indicated that stalking-specific intervention programmes were widely unavailable. The super-complaint report echoed this recommendation, suggesting that the Home Office could develop standardised intervention programmes and provide funding based on available evidence, in collaboration with the Ministry of Justice (HM Inspectorate of Constabulary *et al.*, 2024). Some progress has already been made on this front, as the Home Office *et al.* (2024) have pledged to publish a set of national standards for stalking perpetrator programmes and to accept or partially accept recommendations from the super-complaint report. Nonetheless, it remains to be seen whether and, if so, how these recommendations will be addressed.

Moreover, SPOs and future civil preventive hybrid orders should undergo more thorough legislative scrutiny during the drafting and consultation stages. Evidence indicates that, like pre-existing hybrid orders, policymakers did not adequately consider the implications of including coercive measures in SPOs. As a result, SPO respondents' privacy and freedoms can be severely restricted without procedural safeguards during SPO applications. Involving the Joint Committee on Human Rights in the legislative review of future preventive orders

would be a positive step in ensuring that hybrid orders are both proportionate and legally ethical (Rodgers, 2023).

Examining how preventive orders function within the existing legal frameworks is also essential. SPOs are often confused with other preventive orders, such as NMOs and restraining orders. As a result, police and courts frequently rely on orders with which they are more familiar. To address this issue, additional training and guidance should help practitioners to understand the distinctions between SPOs and other preventive orders. Policymakers should also consider whether other preventive (hybrid) orders might overlap with or hinder criminal prosecutions, a common issue with SPOs due to the previously accepted criminal standard of proof for full SPOs.

However, one of the most significant recommendations made by practitioners themselves was for more research on SPOs to be conducted. The suggested areas for future research are discussed below.

### **Suggestions for future research**

A key area for future research involves examining the use and effectiveness of SPOs. Current studies on SPOs are limited and primarily consist of official reports, such as the Home Office review, the stalking super-complaint, and the subsequent report. An important area of research involves investigating how police and courts utilise SPOs compared to the prevalence of stalking. While this was addressed in the current study, more in-depth longitudinal qualitative studies focusing on specific stalking cases could be conducted to assess the overall effectiveness of SPOs.

It is also essential to determine whether the adoption of SPOs is increasing and, if so, to what extent. This would be especially useful in terms of gauging whether the use of SPOs has

evolved following the lowering of the standard of proof accepted for full SPOs (Home Office *et al.*, 2024). It would also be interesting to find out whether other changes, such as applying SPOs at conviction or acquittal (Home Office *et al.*, 2024), would increase the number of SPOs granted. Furthermore, confirming existing or new barriers to the application process for SPOs and understanding what these barriers entail would allow further evaluation of the SPO process and what could be improved.

More significantly, there is also a research gap regarding victims' experiences of SPOs. Some official reports have included victims' perspectives on reporting stalking to police (Suzy Lamplugh Trust, 2021c; Suzy Lamplugh Trust, 2022; HM Inspectorate of Constabulary *et al.*, 2024; IOPC, 2024a). However, to date, there has been no in-depth research on victims' experiences of SPOs specifically. To address this gap, qualitative research focusing on victims' experiences of SPOs should be conducted to determine whether victims feel that SPOs effectively protect them. Qualitative research should also be undertaken with respondents, practitioners, policymakers, and the public to gather a comprehensive understanding of SPOs, including their key strengths and weaknesses.

Further research with police and the courts should also examine how SPOs, stalking investigations, and prosecutions may conflict. The findings indicate that the criminal standard of proof accepted for full SPOs significantly contributed to these conflicts. The issue of whether tensions between SPO applications and prosecutions have continued now that the standard of proof has been lowered merits further investigation, and, if so, it would be worth exploring how this could be avoided. This research could also be expanded to include other hybrid orders, as there is a considerable lack of research into whether these hybrid orders conflict with criminal prosecutions.

Moreover, there is a significant need to examine how SPOs affect the rights of respondents. Currently, clarity is lacking about the prohibitions or positive requirements imposed on respondents, the duration of these conditions, and their effects on respondents. It is therefore crucial to analyse the implications of specific SPO conditions, especially the use of indefinite orders. This recommendation extends to all civil preventive hybrid orders, as empirical research on these is sparse, despite widespread acknowledgement of the legal and practical issues that they present (Rodgers, 2023).

Research on whether and, if so, how SPOs and DAPOs interact should be conducted. As the study has demonstrated, SPOs often conflict with NMOs and DVPOs, measures that are more typically used in domestic abuse cases. DAPOs carry the same set of prohibitions, positive requirements, and criminal penalties for breaches as SPOs and cover all forms of domestic abuse, including stalking and harassment. As a result, it is likely that DAPOs will overlap with SPOs substantially when they are introduced nationwide. Therefore, it would be worth investigating how this occurs and whether research on SPOs could have implications for implementing DAPOs.

Lastly, investigations into whether SPOs are overtaking stalking prosecutions should be conducted. Although the findings do not suggest that SPOs are being used as an alternative to stalking prosecutions overall, concerns have been voiced about similar preventive orders (Her Majesty's Inspectorate of Constabulary and Her Majesty's Crown Prosecution Service Inspectorate, 2017; Townsend, 2020; Bates and Hester, 2020), indicating that this may be a possibility in the future. This is a serious concern, as the use of SPOs as an alternative may result in a 'downgrading' of criminal charges for stalking, which carry comparatively higher penalties and consequently provide more opportunities for victim protection. Quantitative and qualitative research on the number of SPOs granted and criminal proceedings since 2022, along with practitioners' and victims' perspectives, would provide insight into whether SPOs

have become more prevalent than prosecutions and what implications this has for victim protection.

## **Conclusion**

This study contributes to research on criminology, stalking and preventive justice. It is one of the first to examine the use of SPOs by the criminal justice system across all forces in England and Wales. Additionally, the study highlights the effectiveness of FOI requests as a research method. The potential of FOI requests as a research method has not yet been realised in social science research (Bows, 2017b), meaning that this study makes a unique contribution to criminological research. Furthermore, it also demonstrates the usefulness of adopting a mixed methods approach with FOI requests, as qualitative interviews provide a more comprehensive analysis of the use of SPOs.

The findings contribute to the understanding of how SPOs can be used as an effective tool in protecting victims and de-escalating stalking. However, they also show that systemic issues in the criminal justice system and poor policymaking significantly hinder the effectiveness of these protective measures. By identifying these systemic issues, the findings emphasise the need for efforts to reduce the barriers faced by SPOs and future preventive measures and enhance their ability to facilitate positive action in reducing stalking and offending overall.

The study also contributes to the literature on preventive justice by providing empirical evidence on the tensions between civil preventive hybrid measures such as SPOs and traditional criminal law, revealing serious issues related to human rights and procedural safeguards. It highlights the implications of these findings for future policy and practice, emphasising the need for further legal scrutiny and reform to address the challenges posed by hybrid orders within the criminal justice system.

Lastly, the findings reveal a conflict between the use of SPOs as a criminal justice tool for victim protection and their constitutional and theoretical legitimacy, given their significant infringement of respondents' rights. While practitioners largely support SPOs as a valuable tool in preventing harm before or in the absence of criminal prosecutions, preventive justice theory suggests that SPOs should be held to stricter legal standards to ensure respondents' rights are upheld. Ultimately, the study concludes that SPOs are necessary to protect stalking victims until more robust legal reforms are implemented.

Overall, these insights have significant implications for the shaping and implementation of future preventive measures, especially measures aimed at victim protection.

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## Appendices

### Appendix A – Ethical application approval



15/12/2022

Miss Taylor Skevington

Sociology

University of Essex

Dear Taylor,

#### **Ethics Committee Decision**

Application: ETH2223-0346

I am pleased to inform you that the research proposal entitled "An exploratory investigation on the application of Stalking Protection Orders across the criminal justice system in England and Wales" has been reviewed on behalf of the Ethics Sub Committee 1, and, based on the information provided, it has been awarded a favourable opinion.

The application was awarded a favourable opinion subject to the following **conditions**: please also consider using Box (University's cloud system) to store your data and avoid or minimise risk of losses.

#### Extensions and Amendments:

If you propose to introduce an amendment to the research after approval or extend the duration of the study, an amendment should be submitted in ERAMS for further approval in advance of the expiry date listed in the ethics application form. Please note that it is not possible to make any amendments, including extending the duration of the study, once the expiry date has passed.

#### Covid-19:

Please note that the current Government guidelines in relation to Covid-19 must be adhered to and are subject to change and it is your responsibility to keep yourself informed and bear in mind the possibility of change when planning your research. You will be kept informed if there are any changes in the University guidelines.

Yours sincerely,

Anna Sergi

## Appendix B – Ethical Application extension



20/12/2023

Miss Taylor Skevington

Sociology

University of Essex

Dear Taylor,

### **Ethics Committee Decision**

Application: ETH2324-0408

I am pleased to inform you that the research proposal entitled "An exploratory investigation on the application of Stalking Protection Orders across the criminal justice system in England and Wales" has been reviewed on behalf of the Ethics Sub Committee 1, and, based on the information provided, it has been awarded a favourable opinion.

The application was awarded a favourable opinion subject to the following **conditions**:

#### Extensions and Amendments:

If you propose to introduce an amendment to the research after approval or extend the duration of the study, an amendment should be submitted in ERAMS for further approval in advance of the expiry date listed in the ethics application form. Please note that it is not possible to make any amendments, including extending the duration of the study, once the expiry date has passed.

#### Covid-19:

Please note that the current Government guidelines in relation to Covid-19 must be adhered to and are subject to change and it is your responsibility to keep yourself informed and bear in mind the possibility of change when planning your research. You will be kept informed if there are any changes in the University guidelines.

Yours sincerely,

Anna Sergi

**Appendix C – Police Freedom of Information request script**

Dear [Police force],

I am writing to you under the Freedom of Information Act 2000 to request the following information from [Police force]. I am a PhD researcher from the University of - undertaking a national study of how Stalking Protection Orders (SPOs) are being implemented across the criminal justice system. One of the data collection methods I'm using is Freedom of Information requests, which I will send to all police forces in England and Wales and the CPS and HMCTS. This will provide a snapshot of how many SPOs are being applied for, how long it takes to get one in place, how many are breached and so on. Once data collection has been completed, I am happy to provide you with a copy of the main findings.

Please may you provide me with:

- 1) How many application packs for Stalking Protection Orders were completed by police officers/staff in [Police force] during the period [dates]?
  - a. Of these application packs, how many were authorised by superintendents and put before the court?
  
- 2) Of the Stalking Protection Orders put before the court by [Police force] in the period [dates]:
  - a. How many were granted by the court?

3) How many application packs for Interim Stalking Protection Orders were completed by police officers/staff in [Police force] during the period [dates]?

a. Of these application packs, how many were authorised by superintendents and put before the court?

4) Of the Interim Stalking Protection Orders put before the court by [Police force] in the period [dates]:

a. How many were granted by the court?

5) How many stalking incidents were recorded by [Police force] in the period [dates]?

a. (originally b). How many of these incidents were flagged as cyber-dependent and/or cyber-enabled?

Please provide the information in whatever form is easiest for you to provide.

If it is not possible to provide the information requested due to the information exceeding the cost of compliance limits identified in Section 12, please provide advice and assistance, under the Section 16 obligations of the Act, as to how I can refine my request. As well as this, if there are any questions you can answer despite being unable to answer any others, please proceed in answering those specific questions.

If you can identify any ways that my request could be refined, I would be grateful for any further advice and assistance.

If you have any queries, please don't hesitate to contact me via email and I will be very happy to clarify what I am asking for and discuss the request.

Thank you for your time and I look forward to your response.

Kind regards,

Taylor Skevington

**Appendix D – CPS Freedom of Information request script**

Dear Crown Prosecution Service,

I am writing to you under the Freedom of Information Act 2000 to request the following information from the Crown Prosecution Service. I am a PhD researcher from the University of Essex undertaking a national study of how Stalking Protection Orders (SPOs) are being implemented across the criminal justice system. One of the data collection methods I'm using is Freedom of Information requests, which I will send to all police forces in England and Wales and the CPS and HMCTS. This will provide a snapshot of how many SPOs are being applied for, how long it takes to get one in place, how many are breached and so on. Once data collection has been completed, I am happy to provide you with a copy of the main findings.

Please may you provide me with:

- 1) How many SPOs were breached in total from [dates]?
- 2) How many interim SPO breach offences were recorded on the CPS Management Information System (MIS) Database from [dates]?
- 3) How many full SPO breach offences were recorded on the CPS Management Information System (MIS) Database from [dates]?

Please provide the information in whatever form is easiest for you to provide.

Please answer as many of the questions as you can, even if you cannot answer all of them. If there is a question you cannot answer, please provide a reason as to why not, so I can include this in my study.

If it is not possible to provide the information requested due to the information exceeding the cost of compliance limits identified in Section 12, please provide advice and assistance, under the Section 16 obligations of the Act, as to how I can refine my request.

If you have any queries, please don't hesitate to contact me via email and I will be very happy to clarify what I am asking for and discuss the request.

Thank you for your time and I look forward to your response.

Kind regards,

Taylor Skevington

**Appendix E – HMCTS Freedom of Information request script**

Dear HM Courts and Tribunals Service,

I am writing to you under the Freedom of Information Act 2000 to request the following information from HM Courts and Tribunals Service. I am a PhD researcher from the University of Essex undertaking a national study of how Stalking Protection Orders (SPOs) are being implemented across the criminal justice system. One of the data collection methods I'm using is Freedom of Information requests, which I will send to all police forces in England and Wales and the CPS and HMCTS. This will provide a snapshot of how many SPOs are being applied for, how long it takes to get one in place, how many are breached and so on. Once data collection has been completed, I am happy to provide you with a copy of the main findings.

Please may you provide me with:

- 1) How many applications for Stalking Protection Orders were made by the Police to the court during the period [dates]? (If possible, please indicate the month of application and by which force. If this is too onerous, a total is sufficient).
  
- 2) Of the Stalking Protection Orders put before the court by the Police in the period [dates], how many were granted by the court?

3) How many applications for Interim Stalking Protection Orders were made by the Police to the court during the period [dates]? (If possible, please indicate the month of application and by which force. If this is too onerous, a total is sufficient).

4) Of the Interim Stalking Protection Orders put before the court by the Police in the period [dates], how many were granted by the court?

If possible, please indicate the month of application and the police force it was applied by. If this is too onerous, a total is sufficient.

Please provide the information in whatever form is easiest for you to provide.

Please answer as many of the questions as you can, even if you cannot answer all of them. If there is a question you cannot answer, please provide a reason as to why not, so I can include this in my study.

If it is not possible to provide the information requested due to the information exceeding the cost of compliance limits identified in Section 12, please provide advice and assistance, under the Section 16 obligations of the Act, as to how I can refine my request.

If you have any queries, please don't hesitate to contact me via email and I will be very happy to clarify what I am asking for and discuss the request.

Thank you for your time and I look forward to your response.

Kind regards,

Taylor Skevington

## Appendix F – Sample interview recruitment email



### Sample Recruitment Email

Dear –

I would like to invite you to take part in a study being undertaken as part of a PhD on Stalking Protection Orders and how they are used in the criminal justice system in England and Wales.

Through my research and networking with other stalking practitioners, you have been identified as someone we should speak with. You have significant experience working in this field and we want to learn from you in this research project so we can identify best practice and if necessary, recommend changes to the system that will make it work better.

If you take part, this involves a 60-minute interview about your experiences working in or with Stalking Protection Orders or your experiences of working with people that may have applied for or been subjected to an Order. Through this, you will be helping to contribute to the first systematic attempt to build an evidence base about Stalking Protection Order use in England and Wales, which will help inform practice in the future. Preparation for the interview will not be necessary.

Participation in the project is voluntary, and you can choose not to participate in part or all of the project. You can withdraw from the study at any time during the interview and data collected will be deleted. If you decide to participate, you will be asked to sign a consent form (for more information see the attached information sheet and consent form).

If you have any further queries or wish to participate in the study, please respond to this email or email the address provided separately. To book your availability for an interview, please use the Calendly link below:

<https://calendly.com/ts20825/spo-project-interview>

Kind regards,

Taylor Skevington  
PhD Student: Criminology (Stalking and Cyberstalking)  
University of Essex, Wivenhoe Park, Colchester CO4 3SQ, United Kingdom

## Appendix F – Interview participant information sheet



### **Title of study**

An exploratory investigation on the application of Stalking Protection Orders across the criminal justice system in England and Wales

### **Name of principal investigator/researcher**

Taylor Skevington

### **Invitation**

We would like to invite you to take part in a research study. Before you decide whether you would like to take part it is important that you understand why the research is being done and what it would involve for you. Please take time to read the following information carefully and discuss it with others if you wish. Ask us if there is anything that is not clear or if you would like more information. You will be given a copy of this information sheet to keep.

### **What is the purpose of the study?**

We want to learn about practitioners' experiences with Stalking Protection Orders and how they are used in the criminal justice system in England and Wales. This will contribute to our understanding of how SPOs are being used nationally, and what their impact is and generate an evidence base of best practice.

### **Why have I been invited to take part?**

Through our research and networking with other stalking practitioners, you have been identified as a practitioner we should speak with. You have significant experience working with stalking perpetrators and/or victims and we want to learn from you in this research project so we can recommend changes to the system that will make it work better.

### **Do I have to take part?**

Participation in the project is voluntary, and you can choose not to participate in part or all of the project. You can withdraw at any stage of the project without being penalised or disadvantaged in any way. It is up to you to decide whether or not to take part. If you do decide to take part you will be asked to sign a consent form<sup>1</sup>. If you decide to take part you are still free to withdraw (up to the point that any findings are published) without giving a reason.

### **What will happen if I take part?**

We will ask you to take part in an interview led by one of the research team. Interviews will be conducted by telephone or online according to convenience. Interviews will last approximately 60 minutes and, if you give us permission, interviews will be recorded using a Dictaphone for the purposes of transcription only. All interviews will be semi-structured. This means that while we will have a list of questions to work through, there will be plenty of space to talk about issues which you feel are important. The overall duration of the study will be 12 months.

### **What do I have to do if I take part?**

You will be asked to tell us about your experiences of working in or with Stalking Protection Orders or your experiences of working with people that may have applied for or been subjected to an Order. More specifically, we will ask a series of questions about your work, how stalking features in the lives of people you deal with, how

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<sup>1</sup> Alternatively, if you are unable to sign and return the form, you can provide verbal consent (via telephone)

Stalking Protection Orders are used to identify and respond to stalking, and your experiences of working with other practitioners working with these Orders. During interviews, please answer questions as honestly as you can. There are no other commitments associated with participating.

**What are the possible disadvantages and risks of taking part?**

We do not think that taking part in the research will disadvantage you or put you at risk in any way. If talking about your experiences during interviews is painful or distressing, we will make sure that you are put in touch with someone who can help you.

**What are the possible benefits of taking part?**

You will be helping to contribute to the first systematic attempt to build an evidence base about Stalking Protection Order use in England and Wales, which will help inform practice in the future.

**Data privacy statement**

The University of Essex is the sponsor and the data controller of this study based in the United Kingdom. This means that we are responsible for looking after your information and using it properly. The legal basis under which your data will be processed is Essex's public task. Your right to access, change or move your information are limited, as we need to manage your information in a specific way in order for the research to be reliable and accurate. To safeguard your rights, we will use the minimum personal-identifiable information possible (for further information please see <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/public-task/>).

The University of Essex will use your name and contact details to contact you about the research study as necessary. If you would like to see the results of the study, your contact details will also be kept for this purpose. The only people at the University of Essex who will have access to your identifiable information are the researchers whose details are listed below. The University of Essex will keep identifiable information about you from this study for five years after the study has finished.

If you have any questions or queries regarding this data privacy statement, please contact the University Information Assurance Manager ([dpo@essex.ac.uk](mailto:dpo@essex.ac.uk)).

**Will my taking part in the study be kept confidential?**

All the information that we collect about you during the course of the research will be kept strictly confidential. You will not be able to be identified or identifiable in any reports or publications, with the names of places and people replaced by pseudonyms and quotes paraphrased. Any data collected about you will be stored online using OneDrive, a site protected by passwords and other relevant security processes and technologies. Data collected may be shared in an anonymised form to allow reuse by the research team. These anonymised data will not allow any individuals to be identified or identifiable. Personal data (any data relating to you from which you can be directly identified, or from which you can be indirectly identified in combination with other information) will be deleted after five years. Research data (interview transcripts minus any personal data) will be deleted after ten years.

**What will happen to the results?**

The findings of the project will be published in a thesis and between one to three academic research outputs. You will not be identified in any report or publication. If you wish to be given a copy of any outputs resulting from the research, please ask us to put you on our circulation list. After an embargo period (determined by academic

publishers), all research outputs will be made available on Figshare in line with Open Scholarship principles.

**Who has reviewed the study?**

This study has been approved by Essex Senate Research Ethics Committee.

**What if there is a problem?**

If you have any problems, concerns or questions about this study, you should ask to speak to a member of the research team. If are still concerned, you think your complaint has not been addressed to your satisfaction or you feel that you cannot approach the principal investigator, please contact the Research Integrity Manager, Emma Appleton (emma.appleton@essex.ac.uk). If you are still not satisfied, please contact the University's Research Governance and Planning Manager, Sarah Manning-Press (sarahm@essex.ac.uk).

**Insurance**

The University of Essex holds insurance policies which apply to this study, subject to the terms and conditions of the policy. If you feel you have been harmed or injured by taking part in this study you may be eligible to claim compensation. This does not affect your legal rights to seek compensation. If you are harmed due to someone's negligence, then you may have grounds for legal action.

**Contact details**

Taylor Skevington, Criminology PhD Student,  
University of Essex, Wivenhoe Park, Colchester CO4 3SQ, United Kingdom.  
Email: ts20825@essex.ac.uk

Dr Katerina Hadjimatheou, Senior Lecturer in Criminology,  
University of Essex, Wivenhoe Park, Colchester CO4 3SQ, United Kingdom.  
Email: k.hadjimatheou@essex.ac.uk

Dr Ruth Weir, Senior Research Fellow in Criminology,  
City, University of London, Tait Building Northampton Square, London EC1V 0HB,  
United Kingdom.  
Email: ruth.weir@city.ac.uk

Thank you for taking the time to read this information sheet.

## Appendix G – Interview consent form



### Participant Consent Form

Title of the Project: [An exploratory investigation on the application of Stalking Protection Orders across the criminal justice system in England and Wales]

Research Team: [Taylor Skevington, Dr Katerina Hadjimatheou, Dr Ruth Weir]

		Please initial box
1	I have read and understand the Participant information sheet dated December 2022:	
2	I have been given the opportunity to ask questions about the project:	
3	I agree to the interview being audio recorded:	
4	I understand that the interview will be transcribed:	
5	I understand that the research data I provide will be anonymized unless I agree otherwise:	
6	I agree to the finalized anonymous transcript being shared with other researchers on the Project for their information and/or analysis:	
7	I understand that my taking part is voluntary:	
8	I understand that I can withdraw from the interview at any time without penalty and that I do not have to give any reasons for why I no longer want to take part:	
9	I understand that I can retroactively withdraw from the research after the interview up to a certain point in time (we	

	strongly encourage you to contact us <b>within one month of participation</b> if you wish to withdraw your data):	
10	I understand that my words may be quoted and analysed in publications, reports, web pages, and other research outputs:	
11	I understand my personal details will not be revealed to people outside the group of researchers named above:	
12	I hereby agree to take part in the project:	

Participant Name

Date

Participant Signature

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Researcher Name

Date

Researcher Signature

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## Appendix H – Police interview guide

1. Tell me about your role and how your work involves SPOs
2. How are SPOs being used in your force?
3. What kind of stalking cases are SPOs being used for?
  - a. Are they being used for cyberstalking? Why or why not?
4. How do you identify cases that require SPOs? Are there certain criteria/behaviours?
  - a. Is this different for interim SPOs?
5. What's the approval procedure for getting an SPO in place?
6. What's the process for getting an SPO in place? How long does it take to get an SPO in place on average?
7. Are interim SPOs effective in safeguarding victims in high-risk cases?
  - a. Are interim SPOs issued timely enough to provide protection quickly for victims?

For forces with undisclosed SPO application/court grant numbers:

- Do you know if your force applies for SPOs often? Why or why not?
- Does your force receive court grants for SPOs often? Why or why not?
- Do you think your force has more or fewer SPO applications/court grants than other forces?
- What do you think are the reasons for this?

For Forces with high SPO applications/court grants:

- Why do you think your force has a high number of SPO applications/court grants?
- What do you think works well in your force that doesn't necessarily work in other forces with lower numbers?

For forces with low SPO applications/court grants:

- Why do you think your force has a low number of SPO applications/court grants?
- Are there any challenges/barriers your force faces in making SPO applications/court grants?
  - o Are the challenges/barriers the force experiences common to other forces, or are they unique? Why?

8. What prohibitions and/or positive requirements are included in an SPO?

- a. What prohibitions or positive requirements are most often used?
- b. Are there prohibitions or positive requirements that are not used? Why?
- c. (If not brought up) Is there a difference in use between positive and negative requirements? Why or why not?

9. Are there any difficulties or challenges in using SPOs? What are these?

- a. Are there legal challenges? Are these similar to other preventive orders e.g. non-molestation orders?
- b. Are there delays in processing SPOs in court? If so, for how long on average?
- c. (If not brought up) How does the CPS in your county respond to SPO applications? Why?

10. Do SPO breaches happen often?
  - a. What kind of breaches?
  - b. How are those dealt with?
11. Are other orders or criminal justice interventions (i.e., prosecution) typically sought instead of an SPO? If so, why?
12. How do SPOs compare to other preventive orders? Are they used differently?
13. Do you think there are benefits and drawbacks of preventive orders in general? Do SPOs share these?
14. What are SPOs trying to achieve?
15. Do SPOs fulfil these aims? Why or why not?
  - a. What are the main benefits?
  - b. What could be improved?
  - c. What do you think about the powers under the SPO? Are they enough or could they be extended?
16. Is there sufficient guidance on how to use SPOs?
  - a. Is there training for their use?
17. Do problems occur in issuing SPOs to respondents that are in a different force area?
18. How do police see SPOs? Are they considered useful?
  - a. In your experience, how do victims of stalking see SPOs?
  - b. How do respondents of SPOs view them?

19. In your experience, does SPO use differ between forces? Why?
20. Do you think the Covid-19 pandemic and subsequent lockdown had an impact on the implementation of SPOs?
  - a. If so, is this impact still being felt?
21. Do you think there needs to be more research on SPOs? What kinds of questions would you like to see addressed?
22. That concludes the questions I needed to ask you per this interview, do you have any further questions you would like to ask me?
23. Lastly, do you know of anyone else potentially interested in participating in the study?

**Appendix I – Advocacy and victim support practitioner interview guide**

1. Tell me about your role and how your work involves SPOs
2. Do SPOs come up often? Why or why not?
3. What kinds of stalking cases are SPOs applied to? For what reason?
4. How does cyberstalking factor into SPO applications?
5. What do you think SPOs are trying to achieve?
6. Do SPOs fulfil these aims? Why or why not?
7. What are the main benefits?
8. What could be improved?
9. What do you think about the powers under the SPO? Are they enough or could they be extended?
  - a. How do practitioners see SPOs? Are they considered useful?
10. In your experience, how do victims of stalking see SPOs?
11. How do respondents of SPOs view them?
  - a. Is there sufficient guidance on how to use SPOs?
12. Is there training for their use?
13. Do practitioners understand what SPOs are and what they can do?
14. How about victims of stalking? And members of the public more generally?
  - a. Are other orders or criminal justice interventions (i.e., prosecution) typically sought instead of an SPO? If so, why?
  - b. How do SPOs compare to other preventive orders? Are they used differently?
  - c. Do you think the Covid-19 pandemic and subsequent lockdown had an impact on the implementation of SPOs? Tell me about that.
15. If so, is this impact still being felt?

- a. What kinds of research questions would you like to see addressed around SPOs?
- b. That concludes the questions I needed to ask you per this interview, do you have any further questions you would like to ask me?
- c. Lastly, do you know of anyone else potentially interested in participating in the study?

**Appendix J – Interim and full SPO applications made in each force between January 2020 and December 2022 according to Freedom of Information requests**

<b>Police Forces</b>	<b>SPO applications 2020 - 2022</b>	<b>Interim applications 2020 - 2022</b>
Avon and Somerset Constabulary	6	
Bedfordshire Police	5	
British Transport Police	5	1
Cambridgeshire Constabulary	43	10
Cheshire Constabulary	12	36
City of London Police	0	0
Cleveland Police	<5**	0**
Cumbria Constabulary	4**	
Derbyshire Constabulary		
Devon & Cornwall Police	53	44
Dorset Police	3	3
Durham Constabulary	8*	
Dyfed Powys Police	23	
Essex Police	56	5**
Gloucestershire Police	4	
Greater Manchester Police	60*	
Gwent Police	14*	14*
Hampshire and Isle of Wight Constabulary	41	
Hertfordshire Constabulary	9	9

Humberside Police	28	
Kent Police	111	
Lancashire Constabulary	5*	6*
Leicestershire Police	40	
Lincolnshire Police	15	
Merseyside Police	14	1**
Metropolitan Police Service		
Ministry of Defence Police	0	0
Norfolk Constabulary		
North Wales Police	14	
North Yorkshire Police		
Northamptonshire Police	3*	
Northumbria Police	35	
Nottinghamshire Police		
South Wales Police	9	
South Yorkshire Police	8	
Staffordshire Police	45	
Suffolk Constabulary	34	
Surrey Police	34*	
Sussex Police	121	
Thames Valley Police	59	
Warwickshire Police	2**	
West Mercia Police	23	4**
West Midlands Police	76	

West Yorkshire Police	21	8*
Wiltshire Police		

\* Represents only January 2020 to April 2022

\*\* Represents only May 2022 to December 2022

**Appendix K – Interim and full SPOs authorised in police forces according to Freedom of Information requests**

<b>Police Forces</b>	<b>SPO authorisations 2020 - 2022</b>	<b>Interim authorisations 2020 - 2022</b>
Avon and Somerset Constabulary	6	
Bedfordshire Police	5	
British Transport Police	5	1
Cambridgeshire Constabulary	28	8
Cheshire Constabulary	0	
City of London Police	0	0
Cleveland Police	2	0**
Cumbria Constabulary	10*	11*
Derbyshire Constabulary	25	1*
Devon & Cornwall Police	53	44
Dorset Police	3	3
Durham Constabulary	8*	
Dyfed Powys Police	12	
Essex Police	56	5**
Gloucestershire Police	4	
Greater Manchester Police	13*	
Gwent Police	0*	1*
Hampshire and Isle of Wight Constabulary	12	

Hertfordshire Constabulary	9	9
Humberside Police	9	
Kent Police	111	
Lancashire Constabulary	5*	6*
Leicestershire Police	14	
Lincolnshire Police	13	
Merseyside Police	3**	1**
Metropolitan Police Service	0	
Ministry of Defence Police	0	0
Norfolk Constabulary	0	
North Wales Police	5	4*
Northamptonshire Police	0	
Northumbria Police	16	
North Yorkshire Police	0	
Nottinghamshire Police	0	
South Wales Police	3	
South Yorkshire Police	8	
Staffordshire Police	6	
Suffolk Constabulary	16*	
Surrey Police	17**	
Sussex Police	0	
Thames Valley Police	59	
Warwickshire Police	5	
West Mercia Police	23	4**

West Midlands Police	11	10*
West Yorkshire Police	12	4*
Wiltshire Police	22	

\* Represents only January 2020 to April 2022

\*\* Represents only May 2022 to December 2022

**Appendix L – Interim and full SPOs granted by the courts in police forces according to Freedom of Information requests**

<b>Police Forces</b>	<b>Full SPO court grants 2020 - 2022</b>	<b>Interim SPO court grants 2020 - 2022</b>
Avon and Somerset Constabulary	4*	4*
Bedfordshire Police	4	3
British Transport Police	5	1
Cambridgeshire Constabulary	15	8
Cheshire Constabulary	11	30
City of London Police	0	0
Cleveland Police	1	2
Cumbria Constabulary	7	8
Derbyshire Constabulary	18	3
Devon & Cornwall Police	37	17
Dorset Police	3	3
Durham Constabulary	2*	1*
Dyfed Powys Police	12	3
Essex Police	56	36
Gloucestershire Police	1	3
Greater Manchester Police	6*	2*
Gwent Police	0*	1*
Hampshire and Isle of Wight Constabulary	3*	3*

Hertfordshire Constabulary	9	9
Humberside Police	9	2
Kent Police	107	84
Lancashire Constabulary	5*	6*
Leicestershire Police	12	2
Lincolnshire Police	6	4
Merseyside Police	11	6
Metropolitan Police Service	282	153
Ministry of Defence Police	0	0
Norfolk Constabulary	12	10
North Wales Police	2	7
Northamptonshire Police	3*	2*
Northumbria Police	3	11
North Yorkshire Police		
Nottinghamshire Police	32	3
South Wales Police	2	3
South Yorkshire Police	7	0
Staffordshire Police	6	6
Suffolk Constabulary	13	18
Surrey Police	32	33
Sussex Police	56	62
Thames Valley Police	13	4
Warwickshire Police	4	1
West Mercia Police	22	8

West Midlands Police	21	10
West Yorkshire Police	5	2
Wiltshire Police	14	22

\* Represents only January 2020 to April 2022

\*\* Represents only May 2022 to December 2022

**Appendix M – Stalking incidents and cyber-related stalking incidents in police forces according to Freedom of Information requests**

<b>Police Forces</b>	<b>Stalking incidents 2020 - 2022</b>	<b>Cyber-related incidents 2020 - 2022</b>
Avon and Somerset Constabulary	37214*	12181*
Bedfordshire Police	2921	217*
British Transport Police	306	1**
Cambridgeshire Constabulary	2938	
Cheshire Constabulary	7562	3000
City of London Police	66	3
Cleveland Police	5971	1187*
Cumbria Constabulary	2043	422
Derbyshire Constabulary	8225	258*
Devon & Cornwall Police	3849	59**
Dorset Police	3169	180**
Durham Constabulary	4649*	
Dyfed Powys Police	3201	353
Essex Police	25382	
Gloucestershire Police	16096	136
Greater Manchester Police	19539	2992
Gwent Police	2854*	461*
Hampshire and Isle of Wight Constabulary	8197	

Hertfordshire Constabulary	4913	696*
Humberside Police	5239*	2698
Kent Police	13914	2552
Lancashire Constabulary	7935*	1069*
Leicestershire Police	7242	163**
Lincolnshire Police	3958	524
Merseyside Police	10228	1167
Metropolitan Police Service	21290*	
Ministry of Defence Police	0	0
Norfolk Constabulary	4658	527
North Wales Police	5927	1728
Northamptonshire Police	3959*	241*
Northumbria Police	10802	3530
North Yorkshire Police		
Nottinghamshire Police	3127	0
South Wales Police	7747	393
South Yorkshire Police	8503	1784*
Staffordshire Police	10958	950
Suffolk Constabulary	2969	375
Surrey Police	2125	517
Sussex Police	7421	1058
Thames Valley Police	9257	469
Warwickshire Police	2616	298
West Mercia Police	29887	283**

West Midlands Police	19807	0
West Yorkshire Police	18007	1558
Wiltshire Police	1502	5*

\* Represents only January 2020 to April 2022

\*\* Represents only May 2022 to December 2022