

A guide to the Protection from Harassment Act 1997

The original Act can be found at [Protection from Harassment Act 1997 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1997/40) This guide contains the most important sections. This is not the whole Act. For Scotland and Northern Ireland please see the ACT on legislation.gov.uk for the area specific amendments.

Parts of this guide have been cited directly from the above website whilst others have been paraphrased.

1. Prohibition of harassment.

You should not pursue a course of conduct that constitutes harassment or that you know could be classed as harassment. This includes conduct that involves harassing two or more people or trying to persuade anyone from not to not do something they are entitled to do and or make them do something they should not be doing.

2. The person whose actions are in question should know that what they are doing involves or amounts to harassment or that another person with the same information would class the behaviour as harassment.

3. However, section 1 does not apply if the person causing the harassment can prove the following: that their behaviour was to prevent or detect crime, that their behaviour was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or their behaviour was reasonable under particular circumstances.

2 Offence of harassment.

1. If you pursue a course of conduct under section 1.1 then you are guilty of an offence.
2. Anyone found guilty under this Act can be imprisoned for a term not exceeding six months and or a fine not exceeding level 5 on the standard scale.

Offence of stalking

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

2. A person's course of conduct amounts to stalking of another person if the following apply: it amounts to harassment of that person, the acts or omissions involved are ones associated with stalking, and the person whose course of conduct knows or ought to know that the course of conduct amounts to harassment of the other person.

3. The following are examples of acts or omissions which, in particular circumstances, are ones associated with stalking: following a person, contacting, or attempting to contact, a person by any means, publishing any statement or other material relating or purporting to relate to a person, or purporting to originate from a person, monitoring the use by a person of the internet, email or any other form of electronic communication, loitering in any place (whether public or private), interfering with any property in the possession of a person, watching or spying on a person.

4. A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, and or a fine not exceeding level 5 on the standard scale.

5. In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (4) to 51 weeks is to be read as a reference to six months.

Power of entry in relation to offence of stalking

1. The police can enter your house with a warrant if there are reasonable grounds to believe the following: an offence has been, or is being, committed, there is material on the premises which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence, the material is likely to be admissible in evidence at a trial for the offence, and does not consist of, or include, items subject to legal privilege, excluded material or special procedure material and either entry to the premises will not be granted unless a warrant is produced, or the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.

2. A constable may seize and retain anything for which a search has been authorised under subsection (1).

3. A constable may use reasonable force, if necessary, in the exercise of any power conferred by virtue of this section.

4. In this section “premises” has the same meaning as in section 23 of the Police and Criminal Evidence Act 1984.

Civil remedy.

1. An actual or apprehended breach of may be the subject of a claim in civil proceedings by the person who is or may be the victim of the course of conduct in question.

2. On such a claim, damages may be awarded for (among other things) any anxiety caused by the harassment and any financial loss resulting from the harassment.

3. Where: in such proceedings the High Court or county court grants an injunction for the purpose of restraining the defendant from pursuing any conduct which amounts to harassment, and the plaintiff considers that the defendant has done anything which he is prohibited from doing by the injunction, the plaintiff may apply for the issue of a warrant for the arrest of the defendant.

4. An application under subsection (3) may be made under the following: where the injunction was granted by the High Court, and where the injunction was granted by the county court.

5. The judge to whom an application under subsection (3) is made may only issue a warrant if the application is substantiated on oath, and the judge has reasonable grounds for believing that the defendant has done anything which he is prohibited from doing by the injunction.

6. If a court makes an injunction and this is broken without a reasonable excuse the defendant is guilty of an offence.

7. Where a person is convicted of an offence under subsection (6) in respect of any conduct, that conduct is not punishable as a contempt of court.
8. A person cannot be convicted of an offence under subsection (6) in respect of any conduct which has been punished as a contempt of court.
9. A person guilty of an offence under subsection (6) is liable to one of the following: on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both, or on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both.

Putting people in fear of violence.

1. A person whose course of conduct causes another to fear, on at least two occasions, that violence will be used against him is guilty of an offence if he knows or ought to know that his course of conduct will cause the other so to fear on each of those occasions.
2. For the purposes of this section, the person whose course of conduct is in question ought to know that it will cause another to fear that violence will be used against him on any occasion if a reasonable person in possession of the same information would think the course of conduct would cause the other so to fear on that occasion.
3. It is a defence for a person charged with an offence under this section to show that: his course of conduct was pursued for the purpose of preventing or detecting crime, his course of conduct was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or the pursuit of his course of conduct was reasonable for the protection of himself or another or for the protection of his or another's property.
4. A person guilty of an offence under this section is liable to either on conviction on indictment, to imprisonment for a term not exceeding ten years, or a fine, or both, or on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both.
5. If on the trial on indictment of a person charged with an offence under this section the jury find him not guilty of the offence charged, they may find him guilty of an offence under section 2
6. The Crown Court has the same powers and duties in relation to a person who is by virtue of subsection (5) convicted before it of an offence under section 2 as a magistrates' court would have on convicting him of the offence.

Stalking involving fear of violence or serious alarm or distress

1. A person ("A") whose course of conduct amounts to stalking, and either: causes another ("B") to fear, on at least two occasions, that violence will be used against B, or 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.

2. For the purposes of this section A ought to know that A's course of conduct will cause B to fear that violence will be used against B on any occasion if a reasonable person in possession of the same information would think the course of conduct would cause B so to fear on that occasion.

3. For the purposes of this section A ought to know that A's course of conduct will cause B serious alarm or distress which has a substantial adverse effect on B's usual day-to-day activities if a reasonable person in possession of the same information would think the course of conduct would cause B such alarm or distress.

4. It is a defence for A to show that: A's course of conduct was pursued for the purpose of preventing or detecting crime, A's course of conduct was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or the pursuit of A's course of conduct was reasonable for the protection of A or another or for the protection of A's or another's property.

5. A person guilty of an offence under this section is liable to either of the following: on conviction on indictment, to imprisonment for a term not exceeding ten years, or a fine, or both, or on summary conviction, to imprisonment for a term not exceeding twelve months, or a fine not exceeding the statutory maximum, or both.

6. In relation to an offence committed before May 2022, the reference in subsection (5) to twelve months is to be read as a reference to six months.

7. If on the trial on indictment of a person charged with an offence under this section the jury find the person not guilty of the offence charged, they may find the person guilty of an offence under section 2 or 2A.

Restraining orders.

A court can issue a restraining order to stop further instances of harassment etc.

Restraining orders on acquittal

1. A court before which a person (" the defendant ") is acquitted of an offence may, if it considers it necessary to do so to protect a person from harassment by the defendant, make an order prohibiting the defendant from doing anything described in the order.
2. The order may have effect for a specified period or until further order.

2.A In proceedings under this section both the prosecution and the defence may lead, as further evidence, any evidence that would be admissible in proceedings for an injunction under section 3.

2.B The prosecutor, the defendant or any other person mentioned in the order may apply to the court that made the order for it to be varied or discharged by a further order.

2.C Any person mentioned in the order is entitled to be heard on the hearing of an application under subsection (2B).

2.D It is an offence for the defendant, without reasonable excuse, to do anything that the defendant is prohibited from doing by an order under this section.

2.E A person guilty of an offence under this section is liable to either of the following: on conviction on indictment, to imprisonment for a term not exceeding five years, and or a fine, or on summary conviction, to imprisonment for a term not exceeding six months, and or a fine.

2.F A court dealing with a person for an offence under this section may vary or discharge the order in question by a further order.

3. Where the Court of Appeal allow an appeal against conviction they may remit the case to the Crown Court to consider whether to proceed under this section.

4. Where: the Crown Court allows an appeal against conviction, or a case is remitted to the Crown Court under subsection (3), the reference in subsection (1) to a court before which a person is acquitted of an offence is to be read as referring to that court.

5. A person made subject to an order under this section has the same right of appeal against the order as if: they had been convicted of the offence in question before the court which made the order, and the order had been made under section 5.

Limitation.

In section 11 of the Limitation Act 1980 (special time limit for actions in respect of personal injuries), after subsection (1) there is inserted— “(1A) This section does not apply to any action brought for damages under section 3 of the Protection from Harassment Act 1997.”

Interpretation of this group of sections.

(1) This section applies for the interpretation of sections [sections 1 to 5A].

(2) References to harassing a person include alarming the person or causing the person distress.

(3) A “course of conduct” must involve the following: in the case of conduct in relation to a single person, conduct on at least two occasions in relation to that person, or in the case of conduct in relation to two or more persons, conduct on at least one occasion in relation to each of those persons.

(3A) A person’s conduct on any occasion shall be taken, if aided, abetted, counselled or procured by another— to be conduct on that occasion of the other (as well as conduct of the person whose conduct it is); and to be conduct in relation to which the other’s knowledge and purpose, and what he ought to have known, are the same as they were in relation to what was contemplated or reasonably foreseeable at the time of the aiding, abetting, counselling or procuring.

(4) “Conduct” includes speech.

(5) References to a person, in the context of the harassment of a person, are references to a person who is an individual.