

# Examining the Victim's Right to Review by police in stalking and harassment cases: report of FOI findings – Executive summary

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# Executive Summary

## i. Introduction

Crime survey data for England and Wales suggests that around one in six adults has experienced stalking since the age of 16 – 19.9% of women and 9.6% of men (Office for National Statistics, 2020). Stalking lacks a “strict legal definition” but Alison Bird, Clinical Stalking Lead at Solace Women’s Aid, defines it as:

### **Stalking**

A pattern of fixated, obsessive, unwanted and repeated behaviour which is intrusive and causes serious alarm and distress and/or fear of violence to the victim.

Stalking is a ‘course of conduct’ offence, which means that it is not defined by a single unwanted or intimidatory act but comprises a series of incidents (two or more) which may individually appear routine or innocuous. For this reason, stalking cases remain “difficult to prosecute” (CPS, 2018). It is therefore critical for police to look at the totality of the behaviours and not incidents in silos. Contextual evidence from survivors suggests that stalking victims are sometimes left feeling misunderstood after reporting, with the significant impacts associated with ongoing stalking going unrecognised or unacknowledged: *“I didn’t understand most of the police actions as they were not explained to me directly. I felt hurt and like my case wasn’t important anymore”* (‘D’, a stalking survivor).

Laws related to stalking have advanced significantly over the past 25 years, with the introduction of The Protection from Harassment Act 1997 (PHA 1997), and the Protection of Freedoms Act 2012. These laws have afforded greater recognition and protection for victims (CPS, 2018; Harris, 2000; Scott & Sheridan, 2011). However, evidence suggests that there is an ongoing recording gap, with stalking offences often being mis or under-recorded by police (Suzy Lamplugh Trust, 2018).

It is worth noting that when campaigners proposed the stalking legislation it was intended to be a standalone piece of legislation. However, the crime of stalking was introduced within the Protection from Harassment Act 1997 – thus further muddling it with harassment. This is a continued point of discussion with the stalking experts who sit on the National Stalking Consortium<sup>1</sup>. The Victims’ Right to Review (VRR) enables complainants to challenge police decisions, granting stalking victims who believe that their cases have been mishandled an additional avenue for seeking justice.

VRR requests lodged with the police have six possible outcomes:

1. The original decision to take no further action is upheld

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<sup>1</sup> The National Stalking Consortium was formed in 2014. It is a collaboration of organisations that focus on stalking, which aims to identify and rectify gaps in provision for victims of stalking, and improve responses to stalking across the statutory and voluntary sectors. The consortium’s work is “informed by the experiences of victims and robust academic research” (Alice Ruggles Trust, 2021).

2. The original decision to take no further action is overturned, and proceedings are started against the suspect
3. The original decision to take no further action is overturned, and the suspect is dealt with by an out of court disposal
4. The original decision to take no further action is overturned, and the case is referred to CPS for a charging decision
5. Police decide to make further enquiries before the reviewing officer makes a decision
6. The original decision to take no further action is overturned, but the statute of limitations has elapsed so police cannot start proceedings.

This report will examine the extent to which people affected by stalking are making use of the VRR, and how it is shaping outcomes in stalking cases. It will also reflect on how police recording and retrieval procedures affect the accessibility and reliability of information obtained via FOI requests.

## ii. Research Approach

In order to assess the extent to which the police VRR is being used in stalking and harassment cases, and how it is shaping outcomes for survivors, we submitted Freedom of Information requests to the CPS Information Access Team and 49 police forces across England, Wales, Northern Ireland and Scotland. It is important to note that, as we did not receive a FOI disclosure from the CPS Information Access Team, this report is based on findings from responding police forces only.

Query	Rationale
<p>1. In conjunction with the University of Suffolk, we are looking at the Victims' Right to Review in stalking or harassment cases</p> <p>Firstly, we would like to establish how many VRRs (under the enhanced Code) police forces individually have received for stalking/harassment cases (for the years listed individually below)?</p>	<p>1. To determine the extent to which stalking and harassment survivors are aware of/making use of the VRR, and how this has changed since its inception</p>
<p>2. Secondly, of those police VRRs received we would like to know how many VRRs have been upheld by police and how many have been declined?</p> <p>How many that were upheld then succeeded to a prosecution by CPS?</p> <p>This would be for the:</p> <ul style="list-style-type: none"> <li>• Year 2013 – the year VRR came into place (5<sup>th</sup> June)</li> <li>• Year 2014</li> <li>• Year 2015</li> <li>• Year 2016</li> </ul>	<p>2. To determine the extent to which VRR requests are changing outcomes in stalking and harassment cases, and how this has changed since its inception</p>

- |   |  |
|---|--|
| <ul style="list-style-type: none"><li>• Year 2017</li><li>• Year 2018</li><li>• Year 2019</li><li>• Year 2020</li></ul> |  |
|---|--|

### iii. Ethics

The focus of this report is the aggregated FOI responses from police, what these can tell us about the extent to which the VRR is being used by complainants and the impacts it has had on outcomes in stalking and harassment-related cases.

Research based on FOI requests is not typically subject to formal ethics review due to the nature of the information sought; that is, publicly accessible or requestable data that has already been carefully vetted and risk assessed by a public body's own "bureaucratic regime" before being released to researchers (Walby & Luscombe, 2018: 3). As such, the risk to individuals that may be associated with other forms of empirical social research is largely circumvented.

However, by initially relying exclusively on police data, researchers encountered an equal and opposite ethical risk. While our data could tell us what was happening (there had been a substantial increase in VRR requests, the majority of which were either declined or resulted in the original NFA decision being upheld) the human meaning and impacts of these numbers were absent from the analysis.

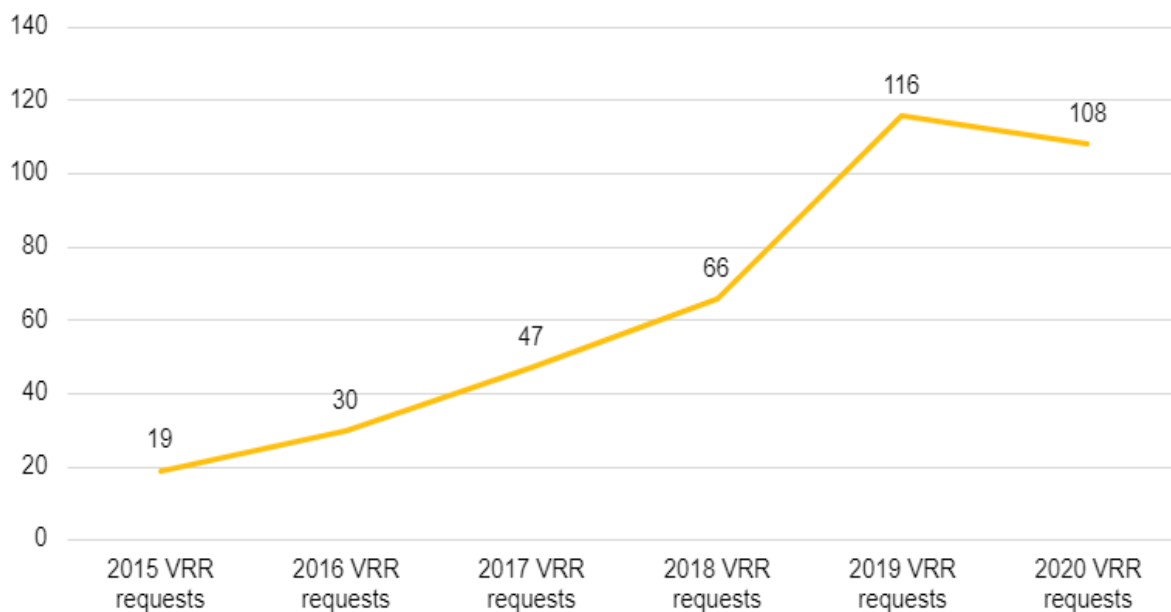
In order to correct this gap and supplement our understanding of the FOI responses while remaining mindful of survivors' rights to anonymity, confidentiality and autonomy, researchers reached out to Independent Stalking Advocacy Caseworkers (ISACs) based in a specialist domestic abuse organisation. These ISACs acted as intermediaries, informing survivors about the research and giving them the opportunity to respond, in writing, to a short survey on their experiences of the stalking and the VRR.

## iv. Key Findings

### iv.i. Quantitative (FOI Returns)

We received disclosures from 27 police forces. 17 forces and the CPS Information Access Team responded to our query with refusal notices or non-disclosures.

Responding police forces reported receiving a combined total of 386 VRR requests related to stalking and harassment offences from 2015-2020. Responding forces saw a steep rise in VRR requests during this period, with more than a 500% increase from 2015 to 2019.



Available data for 2020 shows a slight decline (108 requests). However, as our FOI request was submitted in July 2020, with 18 of the 27 disclosures received by 29 September 2020, the data from 67% of responding forces does not include figures for the October-December quarter. This suggests that the final number for 2020 is likely to be greater than that presented in Figure 1.

The reported outcomes show that the majority of VRR requests resulted in either the original NFA decision being upheld (the outcome for around 54% of all VRR requests received 2015-2020) or the request being found to be ineligible/out of remit for the police VRR scheme (22.5% of all requests). Only 1% of requests received from 2015-2020 resulted in the original NFA being overturned and proceedings started against the suspect, while just over 4% were referred to CPS for a charging decision.



<b>Outcome</b>	<b>#</b>	<b>%</b>
Original NFA decision upheld	209	54.1%
VRR request ineligible/out of remit	87	22.5%
Police making further enquiries before decision by reviewing officer	33	8.5%
Original NFA decision overturned, referred to CPS for charging decision	16	4.1%
Outcomes unavailable/not disaggregated by year	13	3.4%
Original NFA decision overturned, subsequently refiled as NFA	7	1.8%
NFA overturned, did not succeed to prosecution	6	1.6%
Original NFA decision overturned, proceedings started against suspect	4	1%
VRR request withdrawn by complainant	2	0.5%
No further information on record	2	0.5%
Complaint upheld; disposal decision remained	2	0.5%
No response from interested party, so VRR not conducted	2	0.5%
Case is statute barred and proceedings cannot be re-instigated	1	0.3%*
Case reopened, filed due to evidential difficulties	1	0.3%*
Case finalised by mediation; no further action taken	1	0.3%*

Outcomes for VRR requests received by all responding forces – 2015-2020

(\*Rounded to one decimal place)

## iv.ii Qualitative (case studies)

Researchers were able to draw on contextual evidence from stalking survivors who shared their experiences of navigating the system. All survivor narratives have been anonymised to protect their confidentiality while enabling them to voice their experiences.

'C' found out about the VRR scheme through their Independent Stalking Advocacy Caseworker after their case had been NFA'd by police. C felt that they had been *"let down a lot"* and that the *"only person"* on their side was their caseworker. After enduring more than 10 years of stalking by the perpetrator, C found the police decision to take no further action *"devastating"*. The outcome made them feel *"suicidal and like it would never end"*.

C made the decision to lodge a VRR request with police, with the support of their caseworker. During this period, the perpetrator's behaviour escalated, displaying *"new stalking behaviours"*. On review, C's case was referred to CPS, who charged the perpetrator with harassment and issued a non-molestation order. C felt *"relieved"* that the NFA decision had been overturned and safeguarding measures had been put in place but continues to feel *"worried that he will continue"*. C still experiences life-changing impacts from the stalking, which *"has taken over 10 years of my life"* and *"ruined my marriage and my health"*.

After 'B's stalking case was NFA'd, they were informed about the VRR scheme but chose not to pursue this. B decided not to lodge a VRR request *"as the police had been useless up to this point and I did not believe it would help"*.

Although B chose not to take advantage of the VRR scheme, this was not the end of their journey with the police. B *"eventually started afresh with the police"* and found them to be much more helpful.

'D' found out about the VRR scheme through her Independent Stalking Advocacy Caseworker (ISAC) after her case was NFA'd by police.

D felt confused about why the police did not inform her about the VRR.

*"I didn't understand most of the police actions as they were not explained to me directly. I felt hurt and like my case wasn't important anymore. It felt like the police had given up and were trying to hide information from me".*

D decided to lodge a VRR request with the police, supported by a caseworker.

D's VRR request ended in the original NFA decision being upheld.

*"The whole experience working with the police was incredibly stressful and definitely increased my feelings of anxiety around the situation. I didn't feel like I was being listened to. When the case was NFA'd in December 2019 I felt like I'd lost a battle. I didn't feel safe knowing that this was 'procedure'. The communication of the case being closed and NFA'd was scarce. It was only in 2021 that it was articulated to me that the case was closed in March 2020. The communication between the police was difficult and I felt like my safety and well-being was not paramount to the case but rather a 'result' was their main outcome".*

However, D found it helpful having an ISAC during the process.

*"Without an ISAC I wouldn't have felt confident to ask questions and know what was going on but ultimately, knowing I had support and someone fighting the same battle with me meant so much for my self worth during a bleak process. I felt prepared going into appointments and giving statements because of my ISAC, but the most helpful part was just having someone feel the same emotions with you while being proactive and having the tools that I lacked to get answers".*

After their case was NFA'd by police, 'A' was informed about their Right to Review and decided to pursue this. A felt that their case could benefit from review as the original investigation was not *"carried out very well and ignored some of the charges and incidents"*. Following review, however, the original decision was upheld, leaving A *"gutted"*. Due to the decision to take no further action being upheld, A continued to feel *"unsafe"* and experience further incidents.

The situation evolved as A's ex-partner continued to breach the non-molestation order, leading new charges to be brought. A felt that if their case *"had been investigated properly previously, this could have been prevented"*.

## v. Analysis

Our quantitative findings show that VRR requests in relation to stalking cases have increased since the police VRR scheme was introduced in April 2015. This rise is consistent with increased awareness around stalking, victim's rights generally and the VRR specifically, meaning that victims are more likely to recognise and report stalking, more knowledgeable about their right to review and feel confident to pursue this. It could also signal that successive training and education efforts within police forces have better equipped officers to identify stalking when a victim reports another matter, whether due to learning to ask the 'right questions' or through the effective use of risk identification checklists such as DASH. Alternatively, it could be linked to increased levels of stalking and/or dissatisfaction with police handling of stalking and harassment reports. Further research is needed to determine the reason(s) for the large rise in VRR requests shown in our findings.

Our findings regarding outcomes suggest that what might be considered 'successful' VRR requests (resulting in the decision to take no further action being overturned, or in the case being referred to CPS for a charging decision) remain in the minority. The qualitative findings from our case studies speak to the significant impacts on survivors of an NFA decision being upheld – and, as in two cases, not being informed about their right to review in the first place. The contextual evidence we received from stalking survivors suggests that an original NFA decision being upheld can contribute to negative impacts for survivors.

One survivor, 'D' described her experiences as follows: *"When the case was NFA'd in December 2019 I felt like I'd lost a battle. I didn't feel safe knowing that this was 'procedure'. [...] The communication between the police was difficult and I felt like my safety and well-being was not paramount to the case but rather a 'result' was their main outcome"*.

Another survivor, 'C', experienced a more positive VRR outcome, with the original NFA decision being overturned after the stalking escalated, as the perpetrator displayed *"new stalking behaviours"*. On review, C's case was referred to CPS, who charged the perpetrator with harassment and issued a non-molestation order. While C felt *"relieved"* that the NFA decision had been overturned and safeguarding measures had been put in place, they still experience life-changing impacts from the stalking, stating that it *"has taken over 10 years of my life"* and *"ruined my marriage and my health"*.

Significantly, C was informed about their right to review by their Independent Stalking Advocacy Caseworker rather than by police. This suggests that if C had not had access to a specialist caseworker who was able to inform them about their options, they could have been vulnerable to further escalation and violence. This is a troubling finding, which may point to a need for more robust guidance and procedures for police around communicating with victims about their right to review.

## vi. Methodological challenges and implications

The CPS Information Access Team and 17 police forces – more than 35% of all public bodies contacted – were not able to provide us with requested data, with the majority issuing Section 12 refusal notices. This means that the team or person responsible for handling FOI requests calculated that the estimated cost of retrieving the requested information would exceed the “appropriate level” stipulated in the Freedom of Information and Data Protection (Fees and Appropriate Limit) Regulations 2004 – £450, equivalent to around 18 hours of work. This is because the information, while recorded on the system and in principle available for review, is not readily retrievable on a large scale; four responding police forces stated that retrieval would require manual review of every harassment and stalking case for the period in question, while the CPS Information Access Team stated that collating this information would necessitate manual review of the 4265 VRRs received relating to the Principal Offence Category of ‘Offences against the person’.

The fact that more than one-third of forces contacted were either unable to retrieve information on VRR outcomes over a several year period, or unable to do so without exceeding the appropriate cost limit for FOI requests is concerning. This pattern of responses suggests that valuable information on outcomes – while nominally available via manual review – is, in practical terms, inaccessible, which has implications for long-term monitoring and evaluation.

## vii. Conclusions and recommendations

The fact that around one-third of forces issued responses stating that they were either unable to access the requested data, or were not able to do so within reasonable time and cost limits, speaks to a lack of consistency in recording practices between forces.

Our findings suggest that there is a need for more consistent and accessible data recording/storage in relation to stalking VRR requests, both to provide more reliable information for internal monitoring and evaluation, and for identifying and understanding disparities between forces.

Further, qualitative evidence from the case studies demonstrates that not all survivors are being made aware of their right to review or adequately informed about the progress of their case. Survivor testimony suggests a need for more robust guidance and procedures for police on ensuring that stalking victims are kept apprised of their rights and developments in relation to their cases.

Finally, the case studies attest to the benefits for survivors of having an Independent Stalking Advocacy Caseworker (ISAC) to provide support and guidance during the VRR process. Our qualitative findings show that an original NFA decision being upheld can have devastating impacts for survivors. Given the preponderance of ‘negative’ outcomes, having access to an independent source of support may be especially crucial to avoid feelings of revictimisation by the system.

**Recommendation 1:** Greater coordination and uniformity in recording between forces.

**Recommendation 2:** More robust guidance and procedures in place to ensure that all survivors are made aware of their right to review and are fully informed about possible outcomes.

**Recommendation 3:** Ensure that stalking survivors have access to an Independent Stalking Advocacy Caseworker to provide support and information around their options, challenge agencies where needed and promote accountability.

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