

Justice Committee
Crimes Legislation (Stalking and Harassment) Amendment Bill

February 2025

Advocacy and collaboration to improve access and equity

About the Royal Australian and New Zealand College of Psychiatrists

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) is a membership organisation that represents more than 8400 members, including more than 5900 qualified psychiatrists and 2400 trainees. Psychiatrists are clinical leaders in the provision of mental health care that prepares doctors to be medical specialists in the field of psychiatry, supports and enhances clinical practice, advocates for people affected by mental illness and advises governments on mental health care.

The RANZCP and is guided on policy matters by a range of expert committees made up of psychiatrists and community members with a breadth of academic, clinical, and service delivery expertise in mental health.

Introduction

Tu Te Akaaka Roa, the New Zealand National Committee of the RANZCP, welcomes the opportunity to provide feedback to Select Committee on the Crimes Legislation (Stalking and Harassment) Amendment Bill. The recommendations contained within this submission have been made in consultation with expert committees, including the Aotearoa New Zealand Faculty of Forensic Psychiatry, which is made up of specialist psychiatrists with extensive experience working in forensic psychiatry. Due to the breadth of academic, clinical and health service delivery expertise, we are well positioned to provide evidence-based insights on this issue.

Key Messages

Tu Te Akaaka Roa support the introduction of legislative measures to establish a new criminal offence of stalking and harassment. However, based on expert advice from Aotearoa New Zealand-based psychiatrists, we recommend:

- Amending the definition of stalking to adequately capture the stalking behaviour in line with available literature and reduce the burden of evidence on victims.
- Providing adequate resources to raise public awareness, develop sector guidance and educational resources for police, justice and mental health services and enabling access to essential support systems for victims and perpetrators of stalking.

Recommendations

Tu Te Akaaka Roa commends the government for introducing the legislative measures to establish a new criminal offence for stalking and harassment activity. Current legislation does not adequately address this type of behaviour which can cause serious psychological, social, and physical harm and can, in rare cases, escalate to homicide.(1) Evidence from overseas, including Australia, suggests around 12-20% of women and 4-7% of are subject to stalking during their lifetime.(2, 3) While no official data is available for Aotearoa New Zealand, anecdotal reports and information provided by Women's Refuge suggest that stalking is similarly common in Aotearoa New Zealand. While stalking is most commonly experienced by women and in the context of family violence, it occurs across a range of contexts and adequate legislative measures are required to ensure the safety and wellbeing of individuals, whānau and communities.

We are broadly supportive of the Bill but recommend the following changes to strengthen the proposed measures.

Definition of stalking behaviour

While we acknowledge the challenge of providing a clear definition of stalking in a legal context, the current provisions of the Bill fail to adequately capture the complexities of stalking behaviour and place a substantial burden of evidence on victims.

Under Section 216O (1) (a) of the Bill, stalking is defined as “a pattern of behaviour” of specific acts on “at least 3 separate occasions within a period of 12 months”. The requirement of three separate acts within twelve months is inconsistent with existing literature and overseas examples of stalking legislation and may prevent victims from accessing support in a timely manner.

Stalking is complex and often includes a wide range of incidents which may seem harmless in isolation and can be difficult to prove. (4, 5) Additionally, stalking can take place over long periods of time; behaviour may cease for some time (even years) or alternate between different persons. (6, 7) The Bill, in its current form, does not adequately capture this type of recurrent stalking behaviour and may limit the application of the Bill. Furthermore, the evolving nature of stalking tactics, particularly in light of technological advances, must be taken into account when introducing new legislative measures to ensure they remain robust over time. (8, 9)

Recommendation

Tu Te Akaaka Roa recommends definition of stalking be amended to ensure the Bill captures the variable nature of stalking. Based on available literature, we suggest “a course of conduct of more than one specified act”, with no specific time limit.

Section 216O (1)(b) requires that the person “engages in that pattern of behaviour knowing that it is likely to cause fear or distress”. This requirement of intent to harm places the evidential burden on victims and fails to recognise stalkers who are unaware of the harm they are causing and/or have other motivations such as seeking a reconciliation or wishing to establish a relationship. including those who believe they are entitled to such a relationship or that it already exists.

Recommendation

Tu Te Akaaka Roa recommends amending Section 216O (1)(b) to “being reckless or negligent’ as to the harm their behaviour may cause.

Resources and Implementation

The introduction of the Bill is an important step towards acknowledging the harm caused by stalking behaviour. However, legislative changes alone are insufficient for addressing the varied harm caused to individuals and communities.

Stalking behaviour and its harmful impacts remain poorly understood. Essential services, including police and mental health services often fail to recognise the significance of stalking behaviour, leaving victims and whānau without adequate support. While the legal sanctions provided under the Bill may offer temporary reprieve, punitive measures alone are ineffective for preventing recidivism and protect victims from ongoing harm. To improve long-term outcomes, it is critical to provide rehabilitation pathways for stalkers that address the underlying drivers of their behaviour, including potential mental health difficulties. (10)

Recommendation

For the legislation to be effective, Tu Te Akaaka Roa recommends additional resources be directed towards raising public awareness, improving the understanding of stalking behaviour and enabling access to essential support systems. Specifically, we recommended:

- Developing sector guidance and educational resources for police, justice and mental health services to ensure frontline staff recognise stalking behaviour and respond appropriately.
- Developing a specific support framework for victims of stalking to ensure appropriate psychosocial support is available.
- Establishing rehabilitation pathways and mental health treatment options for perpetrators of stalking.

Thank you for the opportunity to provide feedback on Crimes Legislation (Stalking and Harassment) Amendment Bill. We would welcome the opportunity to engage further with the Justice Committee to ensure the Bill improves safety and wellbeing of individuals and communities in Aotearoa New Zealand.

References

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