

Stalking and Housing Rights

By Scottish Women's Rights Centre



Introduction

This is an information guide for women in Scotland who are experiencing gender-based violence and need information on their housing rights.

Experiencing gender-based violence can impact your housing circumstances. You may not feel safe in your own home and want to find safe accommodation elsewhere, or you may want to know what your options are for staying in your home and keeping the abuser away. This guide will provide you with information about your housing rights in Scotland and enable you to make informed choices.

We have also included details of other organisations and services which may be able to offer you further support. Please note that this guide does

not include all forms of gender-based violence. If your circumstances are not covered by this guide, please contact the SWRC helpline and speak to a member of the team. They will be able to signpost you to appropriate information and support.

The Scottish Women's Rights Centre (SWRC) has co-produced this guide with Shelter Scotland and Scottish Women's Aid. The guide contains information for a range of circumstances that survivors of gender-based violence may face and has helpful flow charts that set out different options available depending on the relevant circumstances.

Other Associated Guides

Guide 1

Domestic Abuse and Housing Rights

Guide 2

Sexual Abuse and Housing Rights

Guide 4

Non-UK Nationals experiencing Gender-Based Violence and Housing Rights

Web www.scottishwomensrights.org.uk

Helpline 08088 010 789

Email info@scottishwomensrightscentre.org.uk



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This guide was developed by:



The Scottish Women's Rights Centre is a collaboration project between Rape Crisis Scotland, JustRight Scotland and the University of Strathclyde Law Clinic, providing free legal information, advice, representation and advocacy support to self-identifying women in Scotland affected by violence and abuse



Scottish Women's Aid is the lead organisation in Scotland working towards the prevention of domestic abuse. We play a vital role in coordinating, influencing and campaigning for effective responses to domestic abuse. Working with a network of 34 specialists in local Women's Aid groups toward a shared vision of a Scotland where domestic abuse is not tolerated.

Acknowledgements

We would like to acknowledge and thank Shelter Scotland the support we received in the content for these guides.

Shelter Scotland provide practical support and advice to people experiencing bad housing or homelessness, by informing professionals, and by campaigning for legislative change.

What is Stalking?

In Scotland, the law defines stalking as a 'course of conduct' crime. This means "conduct" or unwanted behaviour carried out over two or more incidents that make or are intended to make a person feel fear and alarm." This does not need to be criminal in nature; it is the course of conduct that is criminal where it causes a person to feel fear or alarm.

For example, it could be that:

- You are sent an unwanted bouquet of flowers.
- You have received unwanted messages on social media.
- The person follows you around, comes to your home or work or monitors your behaviour.

If the behaviour during these two incidents came from the same person and they were intended to make you feel frightened or alarmed, or, that person should have known that this behaviour was likely to make you frightened or alarmed, then it is a crime.



What is Stalking?

The Scottish Women's Rights Centre can provide legal information and support if you are being stalked. We can also support you if you decide to report to the police. You can call our [helpline](#) to discuss your situation and how you are coping with the stalking in a confidential, supportive and non-judgemental space. Our Advocacy workers can talk you through your options and work with you to create a [safety plan](#).

They can also support you to access legal advice from one of our solicitors, for example on the legal protections that you may be able to request to keep you safe. You can find more information about protective orders on our website.¹⁶ We also have [a written legal guide](#) to help you understand your rights.

If you have experienced stalking it can be very frightening and isolating. It can be helpful to share some of the feelings and concerns with a person that you trust. This can improve your safety and help you to make plans if the stalking behaviours change or escalate. However, we understand that it might not always be easy to talk about the abuse with people you know. Below is a list of some organisations that can offer you practical advice and support. Being able to build up a network of support can help you to cope with the effects of stalking and to feel less alone.

¹⁶ Search for information on Protective Orders on our website:

<https://scottishwomensrightscentre.org.uk>

Stalking as part of Domestic Abuse

Stalking behaviours can very often be used to continue to control, cause fear and isolate you after you have left the abuser. This can involve incidents such as turning up to your place of work, calling and sending text messages, monitoring and leaving comments via social media. If you are/have been in a relationship with the person who is stalking you, this is considered a tactic used by abusive men as part of domestic abuse. If you are not sure what domestic abuse is, please see Guide 1. You may also want to talk through your experiences with one of our Advocacy workers or alternatively you can call Scotland's Domestic Abuse and Forced Marriage Helpline.

Organisations offering support

FollowIt App

If you are experiencing stalking, we often advise that you keep a log of incidents. This can help even if you are unsure whether you are experiencing stalking or not. Stalker behaviour often escalates slowly, with small actions which when viewed in isolation can seem harmless, but when but when taken together demonstrate behaviours intended to frighten and intimidate. You can find out more about stalking behaviours and how to identify them on our website.¹⁷ Keeping a record of what is happening can help you to identify stalking behaviour and pinpoint what is happening to you. It can also help you to understand if there is a pattern of behaviour or if the situation is escalating.

This is why the SWRC and Media Co-op created FollowIt App (FIA)¹⁸, a mobile app for smartphones, that allows you to record and securely store incident logs with details such as the time and location, whether the stalker is known to you, how you felt, and any related screenshots, videos, or photos. The log can help you to build up a picture of events and their impact. Using the app means you have the information in one place and that it is stored safely, so the logs are there even if you can't access your phone.

You do not have to be planning to report to the police to use FIA but the logs can be helpful if you decide to do so. They are securely stored for up to 15 years, but you can request for them to be deleted at any time. You can easily download the log yourself on your phone or you can request SWRC do this and provide it to the police.

¹⁸ Find more information on the FollowIt App at: <https://followitapp.org.uk>

Alongside keeping a log of incidents, you may also consider retaining items that may provide the police with evidence of stalking behaviour e.g. unwanted gifts.

FollowItApp

<https://followitapp.org.uk/>

FollowItApp is designed to help victim-survivors of stalking record what's happening to them. Created with victim-survivors of stalking, the app lets you keep a log of stalking incidents.

Scottish Women's Rights Centre

<https://scottishwomensrightscentre.org.uk>

Our services include legal and advocacy helplines, legal advice surgeries, advocacy support and legal representation. You can find a list of our services on our website.¹⁹

Suzy Lamplugh Trust - National Stalking Helpline

<https://suzylamplugh.org>

This is a confidential service which can provide advice and information about stalking, the law and safety planning.²⁰

Freephone: 0808 802 0300

9.30AM to 4PM Monday to Friday, apart from 9.30AM – 8PM on Wednesdays

¹⁹ List of services the Scottish Women's Rights Centre offers: <https://scottishwomensrightscentre.org.uk/services/>

²⁰ Find National Stalking Helpline details on the Suzy Lamplugh website: <https://suzylamplugh.org/>

Action Against Stalking

<https://actionagainststalking.org>

Provides support and advice to address all aspects of the experience of being stalked.

Email support@actionagainststalking.org

Freephone: 0800 820 2427 (voicemail service where you can leave a message and receive a call back)

Scottish Women's Aid

<https://womensaid.scot>

Scottish Women's Aid is the lead organisation in Scotland working towards the prevention of domestic abuse. They play a vital role coordinating, influencing and campaigning for effective responses to domestic abuse. You can find your local Women's Aid group on their website.²¹

¹⁷ Search for information on stalking and harassment on our website:

<https://scottishwomensrightscentre.org.uk/stalking-harassment/>

¹⁸ Find more information on the FollowIt App at: **<https://followitapp.org.uk>**

¹⁹ List of services the Scottish Women's Rights Centre offers:

<https://scottishwomensrightscentre.org.uk/services/>

²⁰ Find National Stalking Helpline details on the Suzy Lamplugh website:

<https://suzylamplugh.org/>

²¹ Find your local Women's Aid group: **<https://womensaid.scot/find-nearest-wa-group/>**

Scotland's Domestic Abuse and Forced Marriage Helpline

<https://sdafmh.org.uk>

Helpline available 24/7: 0800 027 1234

They also have a web chat on their website

Victim Support Scotland

<https://victimsupport.scot>

Gives free and confidential support and practical help for victims and witnesses of crime.

Rape Crisis Scotland

<https://rapecrisisscotland.org.uk>

Telephone: 08088 01 03 02


From 5PM – Midnight, Monday - Friday

Text: 07537 410 027

Email: support@rapecrisisscotland.org.uk

Your rights when making a homeless application:

- To do this you need to contact the council's Homeless Department and tell them that you are making a homeless application.
- The council has duty to provide you with temporary accommodation in an emergency. You can present as homeless at any local council. This means you can turn up at the Homeless Department's area office or call them.
- You can find information about your nearest office, on the Shelter Scotland website: https://scotland.shelter.org.uk/housing_advice/i_need_help_from_the_council
- You **do not** need to go into lots of detail and provide evidence to the council that you are experiencing gender-based violence at this point.
- You **do not** need to have reported it to the police in order to access emergency homeless accommodation.



**I am/have been
experiencing
stalking and the
stalker is not an ex-
partner**

You want to stay to stay in your home.

- Stalking is a crime and you have the right to report to the Police. The Scottish Women's Rights Centre has information about your rights when reporting Stalking to the Police.
- If you need advice or support before speaking to the police, contact the SWRC helpline.
- If you decide to make a report to the Police and they believe there is sufficient evidence, there might be protections put in place by the criminal justice system such as bail conditions. These can stop an abusive ex/partner coming near you.
- You have the option of using FollowItApp to log the ongoing incidents of Stalking behaviours and this can be used when reporting to the Police or speaking with a Family Law Solicitor about protective orders such as an interdict or non-harassment order.
- You may be able to apply for an interdict or a non-harassment order to keep them away. You can get advice from a Family Law Solicitor.²²
- These are court orders that stop a person from behaving in a certain way and are on option whether you chose to report to the police or not.
- For personal safety information, including safety in your home see the Suzy Lamplugh website.²³

I am/have been experiencing stalking and the stalker is not an ex-partner

²² We have a Solicitor Signposting Network on our website, for more information visit: <https://scottishwomensrightscentre.org.uk/solicitors/>

²³ Suzy Lamplugh Website: <https://suzylamplugh.org/Pages/Category/personal-safety-advice>

You do not feel safe staying in your home, and you do not wish to continue living there

- In an emergency you can make a homeless application.
- The council must provide you with temporary accommodation from the day you present as homeless.
- You may wish a more managed exit from the tenancy (providing it is safe to take this approach) and decide to terminate the tenancy and find somewhere else to live.
- The requirements for ending your tenancy will vary depending on the type of tenancy agreement you have. You can check your tenancy type using the Shelter Scotland Tenancy Checker which you can access on their website.²⁴
- Stalking is a crime and you have the right to report to the Police. The Scottish Women's Rights Centre has information about your rights when reporting Stalking to the Police.
- If you need advice or support before speaking to the police contact the SWRC helpline.

²⁴ Check your tenancy type on the Shelter website at Shelter Scotland > Professional Resources > Shelter Legal > Security of tenure > Tenancy checker: <https://shelter.org.uk>

I am/have been experiencing stalking and the stalker is not an ex-partner

- You may be able to apply for an interdict or a non-harassment order to keep them away. These are court orders that stop a person from behaving in a certain way and are on option whether you chose to report to the police or not.

I am or have been experiencing domestic abuse and I'm being stalked by my ex-partner

- If you are experiencing stalking as part of domestic abuse your rights with regards to housing are the same in the domestic abuse section of this guide. Please see Guide 1 for information.

Glossary

Gender-based violence

(GBV) and abuse is a term that is used to describe crimes such as rape, domestic abuse, stalking, and forced marriage that are overwhelmingly but not exclusively carried out by men against women. It is a symptom of the historic and current inequalities of power that exist between men and women.

There are many ways in which gender-based violence can cause harm. It can be physical, financial, emotional, sexual, or cause harm and suffering in other ways. What all forms of gender-based violence have in common is that they stem from and reinforce gender inequality.

Coercive Control

Involves a pattern of behaviours used to control and dominate. These can

and financial abuse, humiliation, sexual abuse, isolation from friends and family, undermining a person's sense of self, and deliberately causing confusion to distort a person's sense of reality. Coercive control is a term that is used to show that Domestic Abuse is not related only to incidents of physical violence.

Interdict

An interdict is an order from the civil courts which forbids a person from doing something and/or from visiting a certain place or approaching a certain person or even contacting them. An interdict can have specific requirements such as preventing a person from visiting your workplace or place of education. You can apply for an interdict against someone who is still living with you. For example, you

can have an interdict to stop a person from abusing you.

Please note however, this would only be limited to forbidding certain behaviours, as they are still living in the same house. For example, it could not stop your ex/partner from approaching you. Also, if your ex/partner has the legal right to live in the house, you cannot use an interdict to remove these rights.

When you are asking your solicitor to apply to the court for an interdict, make sure you ask them to request the court attaches a power of arrest to any interdict or interim interdict made against the abuser. This means that if the abuser breaches the conditions of the interdict, the police may be able to arrest them if there is sufficient evidence. Your solicitor can also ask the court to “determine” that your interdict is, what is

called, a Domestic Abuse Interdict. This is important because if the court does this and you have a power of arrest attached to that interdict, breach of any of the conditions of the interdict becomes a criminal offence.

Interim Interdict

This is a temporary emergency order which you can request from the court before any legal action is served on the abuser.

Non-Harassment Order

A non-harassment order is designed to prevent behaviour which may cause you harm or distress. It is similar to an interdict but provides additional protection from harassment. If the harassment you are experiencing amounts to domestic abuse, then the behaviour only has to happen once before you can apply to the civil court for a non-harassment order. If the

harassment is not part of domestic abuse situation, then the behaviour must happen on at least two occasions before you can apply for the civil non-harassment order.

Sex for rent

is a form of sexual exploitation which is on the rise in Scotland. Shelter defines sex for rent as being an arrangement where someone is being asked for payment for the housing costs in the form of sexual acts. This can take place in several ways:

Someone has entered a tenancy agreement with a landlord, who if unable to pay rent, may be asked for sex as payment.

- Someone has entered a tenancy agreement with a landlord, who if unable to pay rent, may be asked for sex as payment.

- A person on a low income who never enters into a tenancy agreement and is asked for sex as payment.
- This payment could be for free accommodation, a reduction in rent or to write off rent arrears.

Occupancy rights are the legal rights to stay in a family home and apply where an individual either:

- Owns the home themselves
- Is a joint owner
- Is named as a tenant or a joint tenant on the tenancy agreement or
- Is married or in a civil partnership with someone from the three categories above.

Exclusion Order

An Exclusion Order suspends the occupancy rights of your ex/partner. If you and your ex/partner are married, in a civil

partnership or are joint owners of the property, exclusion orders will only be effective while the marriage or civil partnership continues and until expiry of the order or until one or either of you ask the court to remove the order.

If you are joint tenants, the exclusion order will be in place until it is removed by the court, you or your ex/partner are no longer legally entitled to live in the house. However, if you asked for - and were given - occupancy rights by the court, these only last for up to six months at a time. So, in this case the exclusion order can only last as long as the time you have occupancy rights. The exclusion order stops having an effect when those occupancy rights fall. You can however, go back to the court and ask them to extend the occupancy rights.

Safety Planning

This is a way of helping you to protect yourself and your children. It helps you to plan in advance for the possibility of future violence and abuse. It also helps you to think about how you can increase your safety either within the relationship or if you decide to leave.

Refuge accommodation:

This is a type of temporary accommodation run by Women's Aid groups for women, children and young people who are experiencing Domestic Abuse.

Temporary accommodation:

Is short term accommodation provided by the council. The council can place you in temporary accommodation when you are considered homeless. This can consist of self-contained flats and houses.



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Helpline: 0808 801 0789

