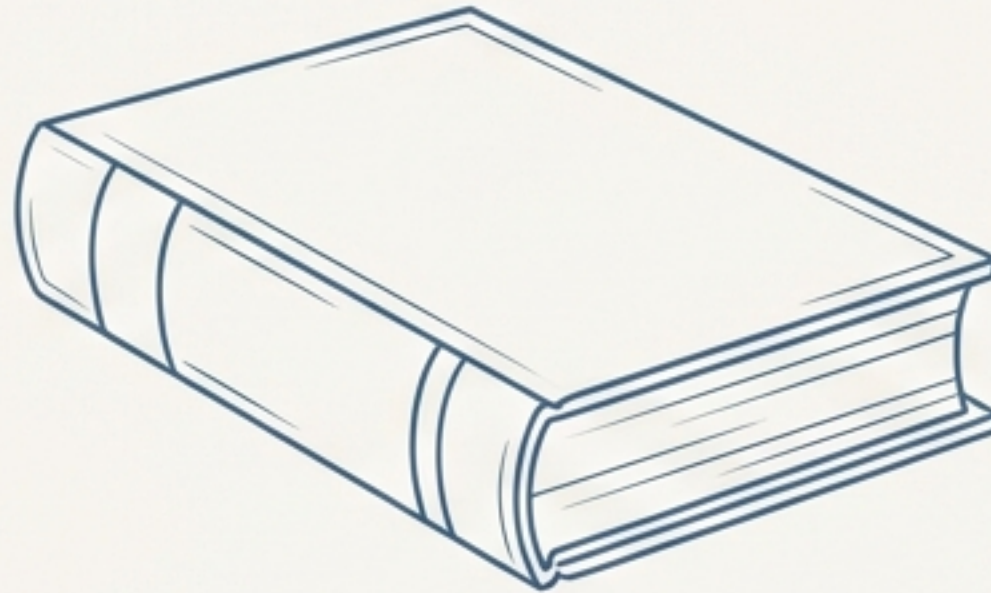


# Deconstructing the Protection from Harassment Act 1997

A Detailed Analysis of Section 1: The Core Prohibition



UNITED KINGDOM STATUTE | CHAPTER 40



# The Act's Purpose: Safeguarding Individuals from Unlawful Conduct

The Protection from Harassment Act 1997 was enacted to safeguard individuals from harassment, stalking, intimidation, and conduct that causes fear, alarm, or distress. It creates both criminal offences and civil remedies.



**Harassment**



**Stalking**



**Intimidation**



**Conduct causing fear,  
alarm, or distress**



## Criminal Offences

Empowers courts to impose penalties, including fines and imprisonment.



## Civil Remedies

Allows victims to claim damages and apply for injunctions to stop the behaviour.



# The Architecture of the Act: A Section-by-Section Overview

Section Title	Brief Intro / Purpose
<b>Section 1: Prohibition of Harassment</b>	Establishes the core rule against pursuing a course of conduct amounting to harassment.
Section 2: Offence of Harassment	Creates the criminal offence for breaching Section 1.
Section 2A: Offence of Stalking	Introduces a specific offence for stalking, defining behaviours like following and monitoring.
Section 3: Civil Remedy	Provides victims a civil route to claim damages and seek injunctions.
Section 4: Putting People in Fear of Violence	Creates a more serious offence for conduct causing fear of violence.
Section 7: Interpretation	Defines key terms like 'harassment' and 'course of conduct.'



# The Core Prohibition: Understanding Section 1

## **(1) Individual Harassment**

A person must not pursue a course of conduct towards ONE person which (a) amounts to harassment and (b) he knows or ought to know is harassment.

## **(1A) Multi-Person Harassment**

Harassment involving TWO OR MORE persons with the purpose of pressuring someone to do or not do something.

## **(2) The 'Ought to Know' Test**

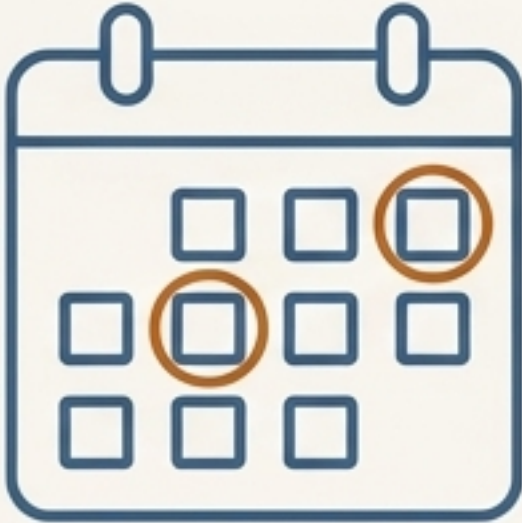
The defendant is judged by the standard of a reasonable person with the same knowledge.

## **(3) Lawful Exceptions / Defences**

Covers conduct for preventing crime, acting under law, or that which is reasonable in the circumstances.



# The Three Legal Tests for Individual Harassment (Section 1(1))

1		3
<b>Test 1: Is it a ‘Course of Conduct’?</b>		
		
Happens on at least two separate occasions. Actions must be connected and directed at a person.		
2		
<b>Test 2: Does the conduct ‘Amount to Harassment’?</b>		
		
The law covers oppressive and unreasonable conduct like bullying, intimidation, and threatening behaviour.		
<b>Test 3: Did the person ‘Know or Ought to Know’?</b>		
		
Met if the person knew their actions were harassment. Claiming ignorance is not a defence if a ‘reasonable person’ would think it was harassment.		



# Test 1 in Focus: What is a 'Course of Conduct'?

**Core Definition:** Harassment must occur at least twice. The actions must be connected in nature and part of a pattern of behaviour. (Reference: Section 7(3)(a))

**This Protects Against:** Repeated unwanted behaviour that causes alarm, distress, fear, or humiliation.

## Real-Life Examples



Repeated late-night phone calls to a neighbour after an argument.



An ex-partner sending dozens of unwanted messages despite being asked to stop.



A colleague repeatedly shouting, humiliating, or following another employee at work.



# Scenario: Applying the Three Tests

An ex-partner sends dozens of unwanted, insulting messages and makes repeated late-night phone calls to an individual over a period of one week, despite being explicitly asked to stop.

## Legal Analysis

### 1. Course of Conduct?

✓ YES. The behaviour (messages and calls) occurred more than twice and forms a clear pattern.

### 2. Amounts to Harassment?

✓ YES. The conduct is unwanted, oppressive, and would cause a reasonable person distress and alarm.

### 3. Knew or Ought to Know?

✓ YES. The perpetrator was explicitly asked to stop, demonstrating actual knowledge (subjective test). Furthermore, a reasonable person would know this behaviour is harassment (objective test).

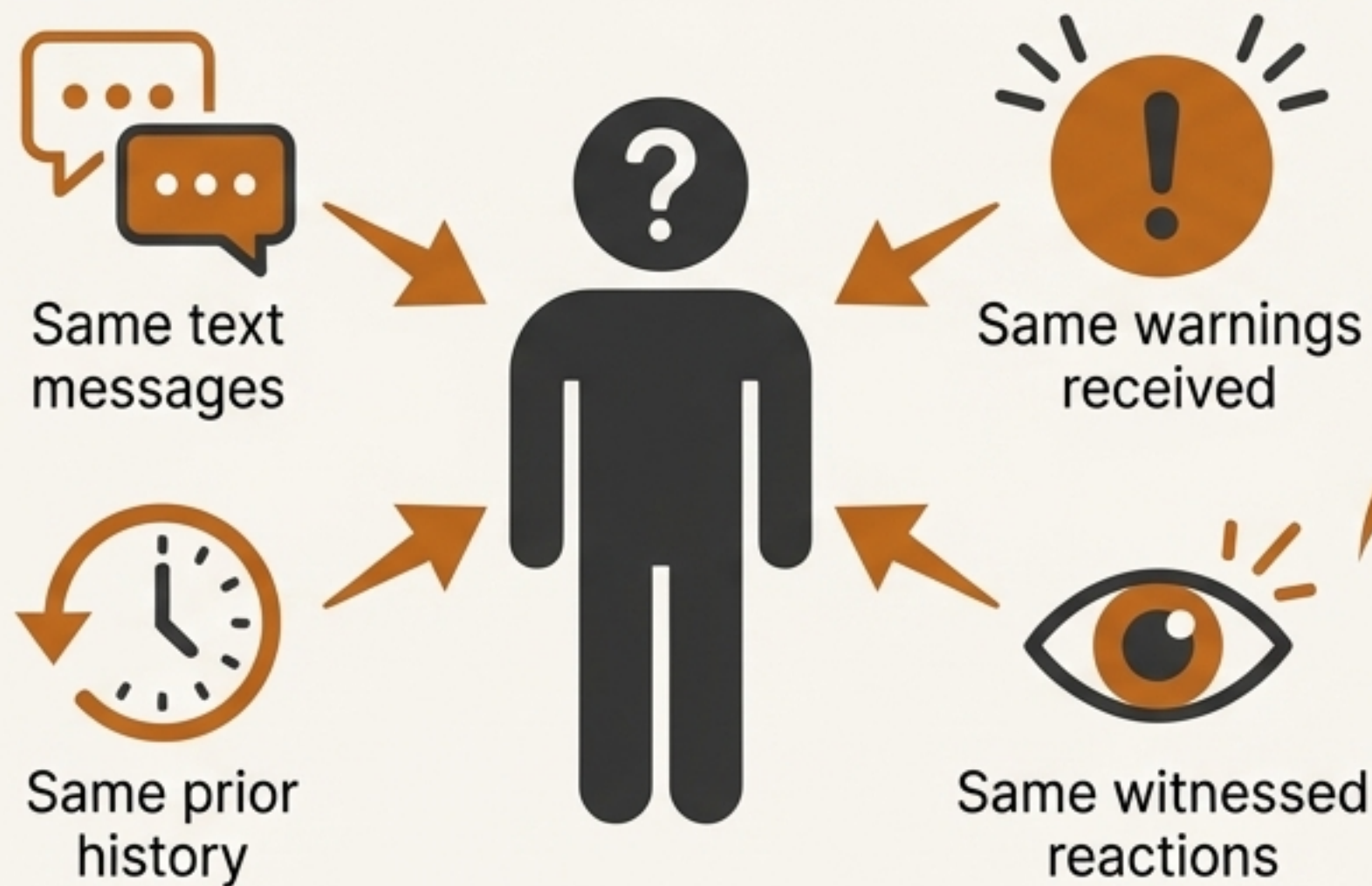
**Conclusion:** This conduct meets all three tests under Section 1(1).



# The 'Ought to Know' Test: An Objective Standard (Section 1(2))

A person is judged by what a reasonable person, in possession of the same information, would think. It is not based on the defendant's own (potentially flawed) belief.

**Step 1: Give the "Reasonable Person" the Same Information.**



**Step 2: Ask the Final Question.**

A large orange thought bubble contains the text: "Would THAT reasonable person think this behaviour is harassment?".

**\*\*Purpose\*\*:** This test prevents common excuses like "I didn't know it was harmful" or "I thought she liked it."



## A Different Harm: Coercive Harassment of Multiple People (Section 1(1A))

This subsection addresses conduct, often seen in protests or coordinated campaigns, that targets multiple people to pressure someone into a specific action.

### 1. Course of Conduct Against 2+ People



Action must involve connected incidents against multiple individuals.

### 2. The Perpetrator Knew (or Ought to Know)



Confirmed if they knew, or a reasonable person would think, it was harassment.

### 3. Intent to Unlawfully Persuade



The goal must be to force someone to act against their will or legal rights.



# Individual vs. Coercive Harassment: A Side-by-Side Comparison

## Section 1(1) Individual Harassment



**Target:** One Person



**Conduct**

Amounts to harassment



**Fault**

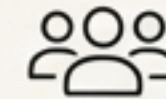
Knows or ought to know the conduct is harassment



**Example**

An ex-partner repeatedly sending unwanted messages.

## Section 1(1A) Coercive Harassment

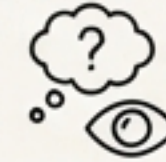


**Target:** Two or More Persons



**Conduct**

Involves harassment of those persons



**Fault**

Knows or ought to know the conduct is harassment... **PLUS** +



**Crucial Extra Element: Intent to persuade**

someone to do something they are not obliged to do, or not do something they are entitled to do.



**Example**

Activists harassing multiple employees of a company to force the CEO to change a policy.





# Scenario: Coercive Harassment in Action

A landlord harasses multiple tenants (e.g., by repeatedly cutting off utilities, making loud noises late at night) to force them to vacate a building, even though the tenants have valid leases and a legal right to stay.

## Legal Analysis (against S.1(1A) criteria)

### 1. Course of Conduct against 2+ People?

✓ **YES.** Repeated actions (cutting utilities, noise) against multiple tenants.

### 2. Knew or Ought to Know?

✓ **YES.** A reasonable person would know this conduct causes distress and alarm.

### 3. Intent to Persuade?

✓ **YES.** The specific intent is to persuade the tenants to do something they are not obligated to do (break their leases and leave).

**Conclusion:** This conduct meets all the requirements for the offence of coercive harassment under Section 1(1A).



# Lawful Exceptions: When Conduct is Not Harassment (Section 1(3))

The burden of proof is on the defendant to show, on a balance of probabilities, that their conduct falls under one of these three exceptions.



## (a) Preventing or Detecting Crime

The conduct was necessary as part of a legitimate law enforcement or crime prevention activity.



## (b) Under Enactment or Rule of Law

The conduct was required by a specific law, court order, or official mandate.



## (c) Reasonableness

In the particular circumstances, the pursuit of the course of conduct was reasonable. This is a flexible, fact-dependent defence.



# The Defences in Practice

## 1. Preventing Crime

Undercover police officers monitoring a suspected drug dealer's movements. Their repeated surveillance is a course of conduct, but it is exempt because its purpose is to detect crime.

## 2. Rule of Law

A bailiff lawfully entering a property multiple times to seize goods under the authority of a Warrant of Execution. The repeated action, even if distressing, is lawful.

## 3. Reasonableness

A debt collection agency making repeated, but reasonable and measured, contact with a debtor. While causing distress, if the contact is proportionate (e.g., calls during business hours), a court may find it reasonable.



# The Legal Framework of Section 1: A Synthesis

**The Foundation is a 'Course of Conduct':** The Act targets patterns of behaviour, not isolated incidents.

**The Test is Both Subjective and Objective:** It considers what the defendant knew, but is ultimately judged against the 'reasonable person' standard.

**Context and Intent are Crucial:** The law distinguishes between general harassment (S.1(1)) and targeted, coercive harassment designed to persuade (S.1(1A)).

**There are Clear, Lawful Boundaries:** The Act provides specific defences for conduct that is necessary for crime prevention, legally mandated, or otherwise reasonable.



## SECTION 1

Source Serif Pro

*Section 1 provides a robust yet nuanced framework for prohibiting harassment, balancing individual protection with legitimate activities.*