

Deconstructing an Offence: A Blueprint of the Protection from Harassment Act 1997

An In-Depth Analysis of Section 4 & Section 4B

The Legal Framework: Locating Section 4

The **Protection from Harassment Act 1997** creates several offences. While Section 2 deals with harassment causing “alarm or distress,” Section 4 addresses a more severe form of conduct.

Section 4 elevates the offence to situations where the victim fears **physical harm**.

Protection from Harassment Act 1997

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graph TD; A[Protection from Harassment Act 1997] --> B[Section 2: Harassment (Alarm or Distress)]; A --> C[Section 4: Putting People in Fear of Violence];
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Section 2: Harassment (Alarm or Distress)

Max 6 Months Prison

Section 4: Putting People in Fear of Violence

Max 10 Years Prison

Blueprint Part 1: The Elements of the Offence

Section 4(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.”



1. Course of Conduct

There must be a pattern of behaviour. This requires incidents on **at least two occasions**. A single threat is insufficient under this Act.

2. Fear of Violence

The victim must genuinely believe they are going to be physically attacked. This is the crucial element that distinguishes the offence from Section 2 harassment.

3. Knowledge (Mens Rea)

The offender must either **know** their actions are causing fear (a subjective test) OR **ought to know** they are causing fear (an objective test).

The Offence in Practice: A Case Example

Subject: John & Sarah

Monday: John stands outside Sarah's house holding a baseball bat and shouting threats.

Wednesday: He follows her to work and makes a 'throat-slitting' gesture.

[✓] Course of Conduct: The actions occurred on two separate occasions (Monday and Wednesday).

[✓] Fear of Violence: A baseball bat and a throat-slitting gesture are explicit threats of physical violence.

[✓] Knowledge: John's actions are so overt that he either knew or certainly ought to have known they would cause Sarah to fear violence.

Conclusion: John is guilty under s.4(1).

Blueprint Part 2: The Objective Standard

Section 4(2) - The 'Reasonable Person' Test

"...the person... ought to know that it will cause another to fear... 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."



- This subsection establishes an **Objective Test**.
- The court asks: "Would a hypothetical 'reasonable person' think the behaviour was scary?"
 - This prevents a defendant from claiming, 'I was just joking' or 'I didn't think they would be scared' if that belief is unreasonable. The **defendant is** judged against the standard of a normal person.

Applying the Objective Test: A Case Example

- **Accusation:** A man sends five letters to his colleague written in red ink, stating 'Your time is up.'
- **Defence:** In court, the man argues, 'I was just playing a prank. I didn't mean for it to be taken seriously.'

Analysis Section

- **The Question:** Would a 'reasonable person' interpret these letters as a prank or a threat of violence?
- **The Standard Applied:** A reasonable person, seeing multiple letters in red ink with that phrase, would likely interpret them as a threat. The context strongly implies malice.

Conclusion: The defence fails. He 'ought to have known' the letters would cause fear, regardless of his stated intent.

Blueprint Part 3: Lawful Defences

Section 4(3) - When Causing Fear Is Not an Offence

Even if the core elements of the offence are met, a person is **not guilty** if their conduct was for a lawful purpose. The Act provides three specific defences:



(a) Preventing or Detecting Crime

The conduct was pursued for the purpose of stopping a crime.



(b) Rule of Law

The conduct was carried out under a legal enactment (e.g., a police officer making an arrest, a bailiff executing a warrant).



(c) Protection

The conduct was reasonable for the protection of oneself, another person, or property.

Justified Conduct: A Defence in Action

Situation: A homeowner discovers a burglar in his garden. He confronts him, shouting, 'If you come back, I will hit you!' This happens on two separate occasions.

Claim: The burglar claims he was harassed and feared violence from the homeowner.



Analysis Section

The Defence: The homeowner can rely on the defence under **s.4(3)(c)**.

The Rationale: His conduct, while threatening, was undertaken for the purpose of protecting his property. The key is that the conduct must be 'reasonable' in the circumstances.



Conclusion: The homeowner has a valid defence and would not be found guilty.

Blueprint Part 4: The Consequences of Conviction

Section 4(4) - Sentencing

As an 'either-way' offence, the penalty for a Section 4 conviction depends on the court where the case is tried. The gravity of the offence is reflected in the high maximum sentence.

Magistrates' Court (Summary Conviction)

Maximum Penalty:
6 months imprisonment

Additional: A fine may also be imposed.

Crown Court (Conviction on Indictment)

Maximum Penalty:
10 years imprisonment

Additional: A fine may also be imposed.

10 YEARS

Expanding the Blueprint: Jurisdiction Beyond Borders

Introducing Section 4B - Offence Committed Outside the United Kingdom

The law must adapt. Section 4B, notably amended by the ***Domestic Abuse Act 2021***, prevents offenders from using international borders to escape justice.

This is known as **Extraterritorial Jurisdiction**. It grants English and Welsh courts the power to prosecute certain offences even when they occur in another country.



The Mechanics of Extraterritoriality

The Three Conditions for Prosecution Under Section 4B

For a person to be prosecuted in England & Wales for harassment that occurred abroad, three specific conditions must be satisfied:

1.



Conduct Abroad: The person's course of conduct consists of or includes actions in a country outside the United Kingdom (e.g., France, Spain, Pakistan).

2.



Criminality: The actions would have constituted a Section 4 offence if they had occurred in England or Wales.

3.



Offender Status: The person is a 'United Kingdom national' or is 'habitually resident in England and Wales.'

Extraterritoriality in Practice: A Case Example

Subjects: David (a British citizen) and his girlfriend.

Location: While on holiday together in Spain.

Conduct: On multiple occasions in Spain, David threatens to beat her up. He then returns to London alone.

- ✓ **Conduct Abroad:** The threats occurred in Spain.
- ✓ **Criminality:** The threats would be an offence under Section 4 if they had happened in the UK.
- ✓ **Offender Status:** David is a UK national (a British citizen).



Conclusion: Despite the offence taking place entirely in Spain, David can be arrested, charged, and tried in an English court under Section 4B.

The Complete Legal Blueprint: A Summary Reference



Section	Topic	Key Elements / Requirements	Maximum Penalty
s.4(1)	The Core Offence	1. Course of conduct (2+ times). 2. Victim fears violence. 3. Defendant knows or ought to know.	(See s.4(4))
s.4(2)	The Objective Test	The "Reasonable Person" standard. Conduct is judged against what a normal person would think causes fear.	N/A
s.4(3)	Defences	Conduct is lawful if for: 1. Preventing crime; 2. Acting under law; 3. Protecting self/property.	Acquittal (Not Guilty)
s.4(4)	Sentencing	Magistrates' Court: 6 Months. Crown Court: 10 Years.	Up to 10 Years
s.4B	Acts Abroad	Prosecution in UK for acts abroad if offender is a UK National/Resident and the act would be a UK crime.	Same as Section 4

The Critical Distinction: Section 4 versus Section 2

Section 2 - Harassment

- **Threshold:** Causing "alarm or distress." 
- **Nature:** Does NOT require a fear of physical harm.
- **Maximum Penalty:** 6 months imprisonment. 

Section 4 - Putting in Fear of Violence

- **Threshold:** Causing "fear of violence." 
- **Nature:** The fear of physical harm is the essential ingredient.
- **Maximum Penalty:** 10 years imprisonment. 

The core difference is the **fear of physical harm**, which elevates the maximum sentence from 6 months to 10 years.

A Tool of Protection with Global Reach

Section 4 of the Protection from Harassment Act 1997 is more than a statute; it is a carefully constructed legal instrument. It establishes a high threshold—the **fear of actual violence**—and backs it with a severe 10-year penalty. Through objective tests and specific defences, it balances the protection of victims with the rights of the accused. Finally, with the inclusion of Section 4B, its protective shield extends beyond UK borders, holding British nationals accountable for their actions worldwide.