



Attorney –General's Department  
Government of South Australia

## Discussion Paper: Implementation considerations should coercive control be criminalised in South Australia

### Foreword

The Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council ('NPYWC') writes in response to your request for feedback on the discussion paper: *'Implementation considerations should coercive control be criminalised in South Australia'* ('the discussion paper'). As a state-based initiative, any proposed changes or policy considerations will have an impact on Anangu families who reside across the Anangu Pitjantjatjara Lands ('APY Lands'). Although there are jurisdictional restrictions for the discussion paper we note that families living in the APY region have deep ties to land that are not defined by jurisdictional state borders. For this reason, families' movements can cover a tri-state region. The impact of any implementation considerations will have a far greater reach than just the South Australian populous – this will carry with it its own set of consequences and considerations. For the purpose of this response we will use the term NPY Lands to reflect families' tri-state movements and cultural understanding of land and borders. Where the APY Lands are referenced this is to speak directly to the region.

We draw your attention to the *Close the Gap Report 2022* (the report) and the national evidence-based discussions for a '*paradigm shift in policy design and delivery*'. This policies starting point is critical for creating long-lasting and meaningful impacts to the communities this discussion paper seeks to support. We echo the position raised in the report that any policy priority includes cultural healing through the strengths of First Nations community-driven services and localised processes. This is echoed by NPYWC and is at the epicentre of NPYWC service delivery. The vision of NPYWC is of '*supporting the dreams of young women, the hopes of mothers & the vision of grandmothers*'. The strength in this statement lies with the generational vision of Directors in leveraging the strengths of families, but also the importance of cross-generational care, relations and family.

Strengthening this commitment to localised processes and decision-making, the NPYWC Domestic and Family Violence Services ('DFVS') has, over the last few years, had a service delivery shift away from a solely justice-based response, and towards a strengths based and healing prevention model that prioritises stories of resistance and community held resources. Through these stories and connectedness there is a created, shared solidarity against domestic and family violence ('DFV'). Unlike other communities in South Australia the APY Lands has a unique context where there are limited wrap-around services and thus engagement with the local police authority is at a higher rate in comparison to other communities as it is often the only available service for an immediate DFV response other than our own DFVS. However, women may also be underreporting DFV to police because of the ongoing impacts of police legacy in the context of colonisation and cultural and familial factors which may in turn create barriers/challenges to publicly seeking support. Issues lie in needing strengthened and greater culturally-appropriate policing, however, these issues also lie with the reality of often having a solely justice-based response. This has proven difficult as matters that are addressed with a justice response – via the Western adversarial process – takes away cultural understanding and self-determination in addressing DFV. Nonetheless, families on the NPY Lands have continued to innovate, despite the ongoing impacts of policing, by individually and collectively responding with solutions that work best to deliver strengths-based and localised processes. These processes are embedded with cultural understanding and draw on pre-existing skills and knowledge's present within communities. This cannot be replicated by universal and traditional justice responses.

NPYWC's position is to continue with the best practice of supporting localised responses to DFV that celebrate and resource the innovation of families and community strength. This is at odds with proposals for investment towards greater criminal justice responses. NPYWC completely supports the inclusion of coercive control as a form of violence in the wider context and discussion around DFV and would encourage a broad understanding of this amongst all service providers including police. However, we are cautious about any introduced legislation and the unintentional impact this may have on women's safety. With this central consideration we will seek to answer all relevant discussion paper questions below.

## Coercive control implementation considerations

### *Questions 1-3*

When looking at coercive control, the DFVS team responds to a DFV crisis by considering the patterns of intimate partner violence in the context of gender. Having a gendered lens is imperative to our responses because the use of violence by women does occur in intimate partner relationships, but commonly occurs as a response to extreme violence and coercion used against them. Without a gendered and nuanced approach to the use of violence, women are extremely vulnerable to being misidentified as primary aggressors and users of intimate partner violence. As a team one of the ways we assess risk based on the level of fear and terror someone has when seeking DFV supports. The attempt to cause fear, by users of violence, is central to the ongoing broad patterns of violence and coercive control is used to instil this fear. As a service this is commonly witnessed in men within broader stories of violence. We have women who engage with the service from anywhere between 1 week to 30 years and it is clear that addressing coercive control must be done through a gendered lens. Through the stories shared from the women who seek support from our service and looking at how fear is created (which also assists our service to measure risk) we hold women's agency and have women be the experts for what they need to stay safe and how best to respond.

Although there are clear patterns around the use and forms of coercive control we as a team are constantly reflecting on coercive control and how it is witnessed through a non-Anangu lens. This is because coercive control will not have a universal context or set behaviours, and there should be no prescribed understanding of what this use of violence looks like. For example, in the context of remote Aboriginal communities coercive control may involve forms of spiritual violence that cannot be easily understood or validated within a Western understanding of violence and/or a criminal justice response. To reiterate the points raised above, we stress the importance of allowing women to voice how coercive control is impacting their level of fear and overall wellbeing and having these discussion lead responses. These responses are also unique in the NPY context because complex kinship present within communities also provide solutions to coercive control and prevention tactics that do not fit within a justice response. We caution the possible impacts of assuming what coercive control looks like, especially within legislation, which could lead to very defined and rigid interpretation of such behaviours. We would also be cautious about the domino effect of having legislated and rigid definitions for how best to prevent the use of coercive control.

For the communication and assessment of the level of understanding of coercive control in the Anangu community we would highlight the work of NPYWC and two-way learning. The Pitjantjara concept of Malparara Malparara, which means walking together side by side and learning from each other, is embedded into the DFVS practice to ensure that not only is there a shared understanding of what violence is or could look like, but that knowledge is also the driver for genuine change and the prevention of violence in communities. This sentiment is best demonstrated from this quote by an Anangu employee: *"we're patching broken stories and we have to patch it, how we patch it is by working **together**, to give the **Anangu story** to DV, it's like getting an old basket and rebuilding it, make it tight, because DV's never had that"*. Working together and not only listening to, but deep listening and uplifting the Anangu story as the leading expertise on DV in the NPY Lands is essential for understanding coercive control. We would endorse any implementation that centres this concept at the very core of policy consideration. This extends to communication of that understanding and having localised and well-funded spaces for First Nation community-controlled organisations to do this important work.

#### **Questions 4 – 7**

First Nations women are the fastest growing prison population in Australia. Consistently and increasingly, First Nations women are being criminalised due to the failure of the criminal justice to apply domestic violence legislation through a gendered lens. This is apparent across the NPY Lands region of Central Australia where women who are victims of long-term significant violence, are being increasingly misidentified as primary aggressors of violence, often resulting in them being defendants of reciprocal intervention orders. Additionally, women are being charged with violent offences such as aggravated assault at alarmingly high rates. Policing in small remote communities, in which the same police are regularly responding to recidivist DFV perpetrators, can result in significant bias. Such inevitable biases often occur at an intersection of oppression relating to race and gender. Our service holds concern that if coercive control were to become an offence, such biases, coupled with a generalist misunderstanding of the broader patterns of DFV, may contribute to the ever growing incarceration and criminalisation of First Nations women.

Just as the understanding of coercive control should not be generalised, neither should the systems and supports for women who are concerned about violent behaviour. First and foremost, women on the NPY Lands are incredibly resourceful, are the experts of their own lives, and are always planning ahead to be more *ninti* (clever) than the violence. Tapping into these stories of strengths and internal



and community knowledge, which is also fostered by a culture of two-way learning, we stress the importance of specialist and Aboriginal community-controlled DFV services that often work in this way. Aboriginal DFV services were at the forefront of advocacy for holistic and wrap-around services before these services entered the universal way of working in DFV space. It is the innovation of these communities (which exists due to their varied experiences) that fostered the reimagining of what DFV responses can look like, and ultimately, what will work for each community.

As holders of this knowledge – it is also imperative that education and training in this area be guided by the innovation of First Nations community controlled DFV services. This includes a focus on historical patterns of acts of violence (embedded in story-telling) and understanding acts of violence in all their forms (two-way learning). Support and processes must be in place to ensure the historical information of use of violence and expert analysts from specialist services are accessed through any criminal or prosecution process. Part of this historical accuracy includes a comprehensive understanding of the extensive impacts of trauma associated with all forms of violence – this includes re-traumatisation from the criminal law procedure.

As part of two-way learning, the education and training needed for victim/survivors around coercive control would be based in localised understanding and provided in local languages. It is not in the best interest to have a one-size fits all response for women living in the NPY region. As there are limited referral pathways for women on the lands it is also fundamental that any training or education around coercive control includes witnessing and uplifting stories of resistance to violence, as this is a huge tool for safety used by women on the lands.

#### **Questions 8 – 13**

As a service we advocate for the following services to be prioritised for the implementation of any coercive control policy and/or legislation: Aboriginal controlled family violence legal prevention units; Aboriginal community controlled DFV services; housing services; and child-centred services outside of the care and protection system. All of these services come into contact with women on the lands as support systems but also supports for assessing safety and enacting self-driven safety plans.

Gaps for DFV include limited funding for supports to women who live with DFV, or who leave or seek respite from coercive controlling relationships. For women on the lands there are very limited resources enabling them to temporarily or permanently leave circumstances of control and start

regaining agency and planning for the long-term. The failure to provide these resources has also contributed to the increasing rates of First Nations children being placed in out of home care.

We also note that the focus on justice responses is one part of the discussion but part of DFV work must also include culturally-appropriate healing. This helps women regain access to the cultural and social agency that is necessary to recover from the impact of coercive control (in which dignity and agency is taken away from women). Without this work there will be very limited long-term, positive and impactful outcomes and cycles of intergenerational trauma will continue to be repeated.

Part of the holistic work of Aboriginal DFV prevention legal services includes looking at the wellbeing of family and community. This includes men who use violence in the community. The healing cannot work in silos or occur with one, but without the other. We advocate for culturally-specific prevention services that draw on knowledge of communities and Elders in order to resist the drivers of violence (and define what that concept looks like), such as coercive control. As with all services on the APY lands there are gaps for the current services made available for users of coercive control.

#### Closing remarks

Embedded in our responses above are the ideas of self-determination, innovation and localised responses and knowledge. It is not only a preference but a necessity that any decision-making that involves a criminal justice response includes the voice and agency of Anangu on the lands. A universal prescribed response would go against the evidence-based best practice for communities utilising their strengths and understanding for solutions and decision making and contribute to the ongoing oppression and systemic violence perpetrated against Aboriginal women, children and communities. We hope that the national commitment and roadmap of transforming and transitioning where power lies in deciding solutions for community health issues, is also replicated at a state level and more importantly in the continued work to protect and prevent DFV for women and children.

Kind Regards,



Liza Balmer

Chief Executive Officer

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# Submission to the South Australian Government:

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*Implementation considerations for criminalising  
coercive controlling behaviours*



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## Executive summary

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While coercive control has been identified as underpinning domestic and family violence for a considerable length of time, there is limited evidence regarding the effectiveness of criminalising coercive control, both in Australia and internationally (ANROWS, 2021). In jurisdictions where coercive control has been criminalised overseas, such as the UK, the Republic of Ireland and Scotland, the effectiveness of such legislation has been determined by the quality of the implementation strategy. Successful implementation of coercive control legislation requires a nuanced and inclusive definition that reflects the range of tactics a perpetrator may use in different contexts; targeted messaging to perpetrators that their behaviour will not be tolerated in the community (including information about where to seek help for managing behaviours); training and upskilling of both the justice and broader service sectors; and additional funding for specialist services to meet the demand of new referrals as a result of the new legislation.

No to Violence are well placed in the sector to support the implementation of coercive control legislation, through the provision of services such as (but not limited to) training and resources to justice and the broader service sector, the Men's Referral Service (MRS) and Brief Intervention Service (BIS), and through the provision of crisis accommodation for perpetrators of coercive control.

No to Violence provides support and advocacy for the work of specialist men's family violence interventions carried out by organisations and individuals in South Australia. The work undertaken by specialist men's family violence services is diverse and includes but is not limited to Men's Behaviour Change Programs (MBCPs), case management, individual counselling, policy development and advocacy, research and evaluation, and workforce development and capability building.

At No to Violence, we believe that legislation has the potential to form an important part of a holistic response to coercive control. However, new offences will only increase the ability of criminal justice systems to respond if these systems correctly identify non-physical abuse. This will depend upon the family violence sector being adequately resourced to provide connected services for victim-survivors and perpetrators.

# Summary of recommendations

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No to Violence recommends that the South Australian Government's implementation of offences to criminalise coercive controlling behaviours includes:

1. Clear messaging about the many forms of coercive control, including the different types of relationships in which the behaviour can occur, and clarification that coercive control involves a pattern of behaviours rather than a single incident.
2. Targeted information for men about coercive control through several mediums, such as mainstream media (e.g.: sports media, social media campaigns); flyers and information available at pubs and events (e.g.: music festivals, major sporting events); and mandatory Respectful Relationships programs in high schools, universities, workplaces, sporting clubs, and community groups.
3. A nuanced definition of coercive control that reflects the range of tactics a perpetrator may use in different contexts. The ANROWS' definition of coercive control could be used as a guide (see our response to Question 3). Examples of coercive controlling tactics would be beneficial.
4. Comprehensive implementation planning and resourcing including the training and upskilling of both primary and secondary services. No to Violence cautions the South Australian Government against becoming over-reliant on justice-led responses for the following reasons:
  - Given the already high number of domestic and family violence cases across the state, South Australia Police (SAPOL) may not have capacity to respond to additional cases of coercive control;
  - Police have an incident-based approach to domestic violence cases. Incident-based policing is an inappropriate function for identifying and responding to coercive control; and
  - Social and health services are often better placed to identify early signs of coercive control.
5. Provision of targeted information for men about accessing help in managing coercive controlling behaviours, such as No to Violence's Men's Referral Service (MRS) and Brief Intervention Service (BIS).
6. Comprehensive training for the justice system on identifying and consistently responding to coercive control. No to Violence can offer support for workforce planning and training to support the implementation of any coercive control legislative changes.
7. An investment in specialist family violence experts to convene regular external consultations with other connected services (e.g.: housing, mental health, alcohol and other drug services, youth services etc.) to upskill workers in identifying coercive control.
8. New and additional funding for South Australian victim-survivor services, especially those providing legal assistance to victim-survivors, such as Women's Legal Services SA (WLSSA) and the Legal Services Commission of SA (LCSA).

9. Measures to address the current gaps in victim-survivor support in South Australia, such as pre- and post-court appearance supports. The South Australian Government should be guided by the advice of women's services in the domestic and family violence sector and their recommendations regarding addressing the existing gaps for servicing victim-survivors.
10. Additional funding to the following services, to bolster existing supports for victim-survivors of coercive control:
- Junction SA's housing initiative to support victim-survivors with short term accommodation and to source sustainable living options; and its AOD services
  - Embolden
  - Women's Legal Service Advice
  - Women's Safety Services SA
  - Women's Domestic Violence Court Assistance Service
  - Relationships Australia South Australia
11. An investment into the following services across South Australia, as per No to Violence's key election asks:
- \$1.8m-3m over three years into existing South Australian men's services, including an expansion of the Men's Referral Services (MRS).
  - \$1.8m over three years to support the development and implementation of a fully resourced and formalised police outreach service, including relevant training, which will directly connect men using violence to the Men's Referral Service.
  - \$5.508m over three years to expand existing crisis housing for perpetrators.
  - Targeted funding for young perpetrator services, so that 1) age-appropriate programs can be developed and 2) the workforce receives training to specialise in working with this age group.
12. Increased funding to all perpetrator services to enable services to respond to increased demand stemming from the criminalisation of coercive control.
13. Funding for No to Violence to develop and deliver a new suite of training packages on coercive control to be included as part of the legislation implementation package.
14. Consultation with perpetrator intervention services regarding their willingness and ability to include programs aimed at perpetrators who use coercive control without physical or other forms of violence, and to ascertain the magnitude of funding that such programming would require.
15. Funding for perpetrator intervention services to secure a foundation of family safety contact practice, including pre- and post-Covid-19 periods.
16. To ensure this legislative change does not result in further overrepresentation of Aboriginal and Torres Strait Islanders in prison, No to Violence recommends:

- The ongoing reform of police practices and procedures, as well as police culture, together with a greater commitment to the development of collaborative projects (such as justice reform initiatives), to address the overincarceration of South Australian Aboriginals whilst still supporting victim-survivors.
- A consultation process should be conducted with Aboriginal and Torres Strait Islander groups in South Australia to inform the legislative changes and implementation phase.

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# Awareness Raising and engagement

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## Question 1: What are the key messages that should be communicated about coercive control?

As mentioned in the discussion paper, coercive control involves tactics of emotional and mental abuse which undermine the victim's sense of autonomy and identity. The biggest challenge in defining coercive control is resisting the temptation to oversimplify and reduce it to a set of specific behaviours. In accordance with our stakeholder consultations in South Australia, No to Violence advises that any messaging about coercive control includes examples that capture the nuance of the diverse and abusive tactics that may be used. Overall, No to Violence suggests that key messages about coercive control should include:

### 1) The many forms coercive control can take (including examples)

No to Violence recommends that messaging includes examples of the many forms coercive control can take, to ensure that victim-survivors can recognise and name their abuse. Although awareness of coercive control is growing, community understanding is still relatively low, and many victims may be unaware that the behaviour they are experiencing is a form of abuse. This is particularly true for members of the community who are already marginalised for various reasons. For these reasons, it is important that key messages incorporate examples of the following types of coercive control:

- Spiritual abuse
- Abuse specific to First Nations peoples
- Deprivation of liberty within a cultural context
- Abuse specific to LGBTQIA+ communities
- Abuse specific for people living with disabilities and their families
- Technology-facilitated abuse
- Threatening or attempting suicide or self-harm
- Gaslighting

These examples are not only important for the awareness victim-survivors – they will help to ensure perpetrators of coercive control understand that these behaviours are unacceptable and will not be tolerated by the community or criminal justice system. This will also enable bystanders to call out coercive controlling behaviour.

## **2) The different types of relationships where coercive control can occur**

No to Violence would prefer a definition of coercive control that provides a holistic representation of relationships to ensure that all persons experiencing coercive control are included. As such, messaging should cover diverse forms of coercive control, including but not limited to:

- Exerting coercive control over a parent or child;
- Coercive control in familial and non-familial caring relationships; and
- Exerting coercive control over a daughter-in-law or other extended family member.

Coercive control can be perpetrated across many different forms of relationships, including intimate partner, familial, caring, and other and other close relationships. It is important this diversity is captured in any messaging for coercive control.

## **3) Clarification that coercive control involves a pattern of behaviours, rather than a single incident**

No to Violence strongly advises that the community messaging about coercive control should clarify that it is a pattern of behaviour rather than a single incident (see legislative definitions in UK and Wales, s76). As heard in the NSW Parliament Joint Select Committee inquiry, perpetrators of coercive control may employ tactics to isolate the victim from their friends and family; control finances; control what they can say, wear or eat; when they can sleep; and when they can leave the house. It is the culmination of such behaviours over time that results in the victim feeling isolated, insignificant, and humiliated. This was true in the case of Hannah Clarke, who was brutally murdered along with her three children by her estranged husband in March 2020. Hannah was subjected to coercive control and other forms of abuse for several years prior to the violence escalating. As noted in the discussion paper, research from the UK has found that coercive control is present in the vast majority of intimate partner homicide cases – even more so than physical violence (Myhill & Hohl 2016, Monckton Smith 2019).

Describing coercive control as a pattern of behaviour will help people to understand that the impacts of abuse are cumulative. As mentioned in the discussion paper, victim-survivors describe coercive control as more harmful and long-lasting than physical abuse. It is important that members of the community are aware of the signs of coercive control, including ways to identify patterns of abusive behaviour and how to report it.

**Recommendation 1: No to Violence recommends that the key messages about coercive control include the many forms behaviour can take, including the different types of relationships in which the behaviour can occur, and clarification that coercive control involves a pattern of behaviours rather than a single incident**



## Question 2: What are the best mediums to communicate information about coercive control to your community?

As the largest national peak body supporting organisations and individuals working with men who use family violence, 'our community' is men who use family violence - in this case, South Australian men. We believe that the messaging to men in South Australia requires a combination of targeted information through mainstream media (e.g.: sports media, social media campaigns); flyers and information available at pubs and events (e.g.: music festivals, major sporting events); and mandatory Respectful Relationships programs in schools, universities, workplaces, sporting clubs and community groups. Examples of similar approaches are already being used to respond to mental illness (Beyond Blue) and gambling addiction (Gambling Help Online). Using multiple and re-enforcing communications strategies creates more opportunities to highlight the harm of coercive control, challenge men's use of controlling tactics, and promote healthy relationships.

As highlighted in our previous submission, media attention is a significant part of community awareness raising. In the United Kingdom, for instance, coercive control has increasingly been an identifiable theme in popular programming such as 'Coronation Street' and the legal drama 'The Split.' However, increasing the visibility of coercive control through popular culture will not be enough to educate the broader population; there also needs to be targeted messaging going out to various groups that covers primary prevention and early intervention of coercive control, to challenge the attitudes and behaviours of men, and to help bystanders and victims identify coercive control - including the pathways available for seeking support.

**Recommendation 2:** No to Violence recommends providing targeted information for men about coercive control through several mediums, such as mainstream media (e.g.: sports media, social media campaigns); flyers and information available at pubs and events (e.g.: music festivals, major sporting events); and mandatory Respectful Relationships programs in high schools, universities, workplaces, sporting clubs, and community groups.

## Education and training for first responders, the legal sector and service providers

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### Question 3: How is coercive control understood by you and more broadly within your community?

As outlined in ANROWS' (2021) policy brief, No to Violence understands coercive control to be a purposeful course of conduct aimed at dominating and controlling another (usually intimate partner but can be other family member) that is almost exclusively perpetrated by men against women. Coercive control is intrinsic to a particular manifestation of male power, where the man uses non-physical tactics and/or physical tactics to subordinate his partner and maintain his dominance and

control over every aspect of her life. Overtime, this effectively removes her personhood. It may involve strategies such as physical, sexual and/or emotional abuse; psychologically controlling acts; depriving the woman of resources and other forms of financial abuse; social isolation; utilising systems (including the legal system) to harm the woman; stalking; deprivation of liberty; intimidation; technology-facilitated abuse; and harassment. Importantly, the concept of coercive control helps to articulate the ongoing, repetitive, and cumulative nature of intimate partner violence.

As outlined in our response to Question 1, coercive control can manifest in many ways depending on the context of the people involved – and for this reason, No to Violence strongly recommends that the South Australian government avoid producing an oversimplified definition of coercive control. Oversimplification would diminish the nuance and severity of the behaviour. Instead, we recommend that specific examples or ‘case studies’ are included in the messaging about coercive control to capture the range of tactics that perpetrators may use to dominate and control their victim.

**Recommendation 3: No to Violence recommends that the South Australian Government adopt a nuanced definition of coercive control that reflects the range of tactics a perpetrator may use in different contexts. ANROWS’ definition of coercive control could be used as a guide. Examples of coercive controlling tactics would be beneficial.**

#### **Question 4: If coercive control were made an offence, what might this mean to you and the people around you?**

There is little evidence to suggest that criminalisation will, in and of itself, have any significant effect on either the perpetrators or victims of coercive control. As outlined in our previous submission, new offences will only increase the ability of criminal justice systems to respond if these systems correctly identify non-physical abuse. This will depend upon the family violence sector being adequately resourced to provide connected services for victim-survivors and perpetrators.

In our consultations with South Australian stakeholders, we heard that services are best placed to identify and respond to early signs of coercive control—and that the community services, rather than solely the police, should be resourced to do this work.

Additional resources and training will need to be allocated to upskill other connected services (for example housing, mental health, youth services).

We take this position because we know that the police are already overwhelmed with the most severe cases of domestic and family violence;

We also understand that identifying and responding to new coercive control legislation will significantly change the way police respond to incidents of domestic and family violence.

This will necessitate moving away from the current approach of incident-based management of South Australia’s policing response to domestic and family violence.

**Recommendation 4:** No to Violence recommends comprehensive Implementation planning and resourcing including training and upskilling both services and police. No to Violence cautions the South Australian Government against becoming over-reliant on justice-led responses for the following reasons:

- Given the already high number of domestic and family violence cases across the state, South Australia Police may not have capacity to respond to additional cases of coercive control;
- Police have an incident-based approach to domestic violence cases. Incident-based policing is inappropriate for identifying and responding to coercive control; and
- Social and health services are often better placed to identify early signs of coercive control

**Question 5:** If you were concerned about the use of coercive control as an individual, or on behalf of someone else, what systems and services would you approach for support or advice?

No to Violence offers a suite of services that are available to men who are worried about their use of violence and abuse, including coercive controlling behaviours. As such, we would recommend that men concerned about their (or someone else's) behaviour contact the Men's Referral Service (MRS). Alternatively, No to Violence also operates the Brief Intervention Service (BIS) – a time-limited, multi-session telephone support for men pre and post men's behaviour change and who are currently on a waiting list for Men's family violence support. This service is being used increasingly by rural and remote men where there are in person access issues.

**Recommendation 5:** No to Violence recommends provision of targeted information for men about accessing help in managing coercive controlling behaviours, such as No to Violence's Men's Referral Service (MRS) and Brief Intervention Service (BIS).

**Question 6:** What education and training is needed to improve the justice sector's understanding of coercive control and detect, investigate and prosecute coercive control appropriately?

As mentioned in our previous submission, responding to coercive control necessitates moving away from our current incident-based policing system. If the criminal justice sector is to be effective in its criminalisation of coercive control, it must have the education and training to move away from incident-based policing.



The below points are critical components of the workforce capacity building required to support a legislative response:

- Consistently identifying and responding to coercive control: Criminal justice systems require training to enable them to identify patterns of coercive control, and to accurately and consistently identify the predominant aggressor during domestic violence callouts.
- Engaging victim-survivors: this will require explaining to the complainant what this pattern is; what it means in a criminal context in order to ascertain criminality; gathering the evidence; and presenting the evidence in court and cross examination on that evidence.
- Specialist knowledge, interview skills to support the gathering of evidence, and professional confidence in the policing, judiciary, child protection, and correctional services contexts.
- Ensuring that the criminal justice system and members of the judiciary have access to and make use of the expert advice from the domestic and family violence sector
- Judiciary roles and responsibilities will require foundational training to interpret the legislation.
- Court experts will need significant clinical front-line experience in working directly with men who use family violence and must also be sufficiently trained in presenting within a court setting.

**Recommendation 6:** Comprehensive training for the justice system on identifying and consistently responding to coercive control. No to Violence is well placed to be part of workforce planning and training to support the implementation of any coercive control legislative changes.

**Question 7: What education and training is needed for organisations that work with victim/survivors and perpetrators of coercive control (e.g.: in health, housing, education, etc.?)**

In our consultations with South Australian stakeholders, including with housing and community services, we heard that the most important training for organisations that work with victim-survivors and/or perpetrators of coercive control, is going through a range of case studies that demonstrate the tactics that perpetrators may use to dominate or control their partner. As one stakeholder put it:

*"It's about getting staff comfortable with the messiness of (identifying coercive control)"*

It is important that this training is provided to periphery services such as housing, mental health, AOD, youth services - who do not necessarily encounter domestic violence perpetrators on a day-to-day basis. Having learning frameworks in place to build the broader service sector's confidence in identifying and referring issues of coercive control, will lead to a stronger South Australian domestic and family violence service system, overall.

To facilitate this, periphery services would benefit from having regular external consultations with specialist family violence advisors. This is a more cost-effective and sustainable model than locating specialist family violence experts in all services, and will provide workers with the cross-skilling necessary to identify and report occurrences of coercive controlling behaviour. Alternatively, organisations could explore opportunities to establish formalised partnerships with external agencies, to draw on each other's skill sets and provided integrated responses to coercive control. While this model has the potential to create significant benefits for both organisations, establishing meaningful relationships and ensuring they are providing dual benefit can be challenging.

**Recommendation 7: An investment in specialist family violence experts to run regular external consultations with periphery services (e.g.: housing, mental health, alcohol and other drug services, youth services etc.) to upskill workers in identifying coercive control.**

## Support services for victim-survivors

### Question 8: What types of coercive control services should be prioritised?

The South Australian Government should expand their support of existing victim-survivor legal services. This expansion should focus on ensuring that existing services are accessible to and appropriate for victim-survivors, in all their diversity. Participants at No to Violence's Roundtable on coercive control consistently stated that court experiences continue to be re-traumatising experiences for victim /survivors. To reduce the trauma of the court experience, participants suggested that pre- and post-appearance supports should be provided for victim-survivors. Providing support services would promote the safety and wellbeing of victim-survivors, thereby increasing the chances that they will ultimately benefit from the court process.

Examples of pre- and post-appearance supports include free consultation and representation; help understanding the family violence legal and court system; and access to protective supports during and after the court process. Women's Legal Services SA (WLSSA) provides free and confidential legal information, advice, assistance, referrals, and representation: as well as outreach work, and education workshops/ seminars. Additionally, WLSSA offers a Family Law & Family Violence program providing legal assistance to women fleeing family violence, as well as the Aboriginal & Torres Strait Islander Women's Program that works specifically with First Nations women and their communities.

Similarly, the Legal Services Commission of SA (LSCSA) provides a Women's Domestic Violence Court Assistance Service that provides specialised and free legal assistance for women in South Australia affected by domestic and family violence. Expanding these programs through the provision of long-term funding would enable victim-survivors to access the services they need to aid in recovery.

**Recommendation 8: New and additional funding for South Australian victim-survivor services, especially those providing legal assistance to victim-survivors, such as Women's Legal Services SA (WLSSA) and the Legal Services Commission of SA (LSCSA).**

### Question 9: Are there any gaps in the services currently available to victim/survivors of coercive control?

As noted above, participants in the No to Violence's roundtables on coercive control identified gaps in pre- and post-court appearance support for victim-survivors of all forms of domestic and family violence, including coercive control. Pre and post support for victim-survivors during the court experience is essential for the safety and wellbeing of victim-survivors. Examples of such support programs include free legal consultation and representation; help with understanding the family violence legal and court system; and access to protective supports during and after the court process.

No to Violence recommends that the South Australian Government hears the advice of women's services within the domestic and family violence sector, and their recommendations around existing gaps for servicing victim-survivors. No to Violence strongly encourages the committee to support the existing work of its South Australian member, Junction SA, who run services supporting survivors of coercive control. To close any gaps that do not meet the needs of victim-survivors, No to Violence recommends funding existing services, acknowledging and responding to the gaps they identify, and adequately resourcing service organisations through funding.

**Recommendation 9: Measures to address the current gaps in victim-survivor support in South Australia, such as pre- and post-court appearance supports. The South Australian Government should be guided by the advice of women's services in the domestic and family violence sector and their recommendations regarding addressing the existing gaps for servicing victim-survivors.**

### Question 10: Are there any current specialist and mainstream service providers that could improve and/or tailor their current services for victim/survivors of coercive control?

As Australia's largest peak body for organisations and individuals working with perpetrators of family violence, No to Violence stands in solidarity with victim-survivor services across South Australia. We know that South Australia's domestic and family violence sector is underfunded. Women's safety services, including services that work with victim-survivors, need new, additional, and sustainable funding to provide the services their clients need. Additional funding would enable these specialist services to expand their delivery and further aid victim-survivors.

**Recommendation 10: Additional funding to the following services, to bolster existing supports for victim-survivors of coercive control:**

- Junction SA's housing initiative to support victim-survivors with short term accommodation and to source sustainable living options; and its AOD services
- Embolden
- Women's Legal Service Advice
- Women's Safety Services SA
- Women's Domestic Violence Court Assistance Service
- Relationships Australia South Australia



# Appropriate responses to and for coercive control perpetrators

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## **Question 11: What types of perpetrator services should be prioritised?**

No to Violence emphasises that the proposed legislation will likely lead to an increased detection of coercive control, an increase in the number of men identified as needing support, and a greater demand for perpetrator services more broadly. No to Violence notes that currently there are not enough services available to cover the existing need in South Australia, let alone an increased need. We are concerned that without significant investment to bolster the men's services sector, referrals made by SAPOL will place additional pressure on the family and domestic violence sector, homelessness and Alcohol and Other Drug sectors. For these reasons, we are calling on the South Australia Government to fund three key initiatives to hold perpetrators to account for their coercive controlling behaviour, thereby keeping more women and children safe and moving us towards our vision of a future free from male violence. These three initiatives formed No to Violence's South Australian key election asks. This section addresses these three initiatives as well as an additional ask.

**Initiative 1: A fully resourced and formalised police outreach service – including relevant training for police officers – that ensures men identified by South Australia Police (SAPOL) as using violence are formally referred to the Men's Referral Service.**

As mentioned above, we know that the introduction of coercive control legislation will likely lead to increased detection of coercive control by police, who are often the first to respond to instances of family and domestic violence and the first to identify if a man is using violence against his partner, ex-partner, or children. We also know that, historically, Australia's police forces have struggled to accurately and consistently respond to family and domestic violence.

We applaud South Australia's concerted effort to improve policing responses to family and domestic violence. This has included the introduction of the Domestic Violence Disclosure Scheme, improvements in specialist family violence training for SAPOL officers, and the creation of Multi Agency Protection Service.

We believe the introduction of a formalised police outreach service in South Australia – including appropriate training for officers – would further strengthen this response by providing outreach to men who have used, or are at risk of using, violence.

No to Violence currently provides police outreach services in Victoria, New South Wales and Tasmania through our Men's Referral Service, or MRS (more on the MRS in the following section). Our outreach service means MRS can make telephone contact with men who are identified as perpetrators of family violence—within 48 hours of police response. As part of this service, police use the MRS assessment of a family violence incident to identify the level of risk posed by a perpetrator to a victim. This process increases the visibility of perpetrators within the family violence system and gives police with a way to connect perpetrators with services.

This outreach service also provides the opportunity to monitor men for warning signs of escalation – with the ultimate goal of preventing the senseless murders of women and children by keeping perpetrators in view.

We know frontline support services have previously advocated for holistic police outreach for perpetrators as well as victim-survivors. The introduction of this service should include input from victim-survivor services, especially around risk management and enhancing the safety of women and children.

The police outreach service should be implemented alongside extensive training and development aimed at service providers, including SAPOL. This training should be developed and implemented with the involvement of existing men's services in South Australia that offer training modules aimed at working with perpetrators.

Further, the men's services sector should work closely with police stations serving areas with high reports of family and domestic violence, and those located in regional areas without access to services, to develop and embed appropriate training.

This training would help to ensure greater SAPOL compliance with this initiative and address the assumptions that underpin police interactions with perpetrators.

**Recommendation 11a: In our key election asks, No to Violence asked for \$1.8m over three years to support the development and implementation of a fully resourced and formalised police outreach service, including relevant training, which will directly connect men using violence to the Men's Referral Service.**

**Initiative 2: Investment in existing South Australian services working with men to end their use of family violence, to provide an integrated service response to police referrals and increase the number of available Men's Behaviour Change Programs (MBCPs) and specialist male family violence interventions.**

No to Violence would like to reiterate that new legislation will likely lead to increased detection of coercive control by SAPOL, leading to more men being identified as requiring support, more men contacting MRS who require a MBOP or specialist family violence intervention. To facilitate the successful implementation of the new legislation, the South Australian government must adequately fund these MBCPs and specialist family violence services to ensure that they have the capacity to meet service demand.

The past five years has seen a huge surge in demand for the MRS. The number of police referrals of violent men to No to Violence has more than trebled from 17,929 in 2016-17, to 58,065 in 2020-21. Our MRS team is dedicated to assessing and monitoring the risk of every one of those cases. In the past 12 months alone, more than 7500 men called the MRS seeking help to access supports to change their behaviours.

In 2021, in response to the COVID pandemic, No to Violence received funding from the South Australian Government to provide this service specifically for South Australia. The current MRS contract runs from 1 July 2021- 30 June 2024, at \$380,000 per annum. In the 20/21 financial year, MRS received 167 contacts from men in South Australia seeking help for their behaviour; in the first six months of 21/22, that number has almost doubled. The increasing demand for the MRS demonstrates that South Australian men are increasingly aware of the service and, perhaps more importantly, increasingly able to ask for the help they need to ensure improved levels of safety for women and children.

We anticipate that there will be an increase in calls to MRS as the new legislation criminalising coercive control comes into effect. No to Violence will require more resources to manage the increase in demand. This funding will ensure we can effectively meet demand and start more men on their change journeys.

As the MRS' primary function is to refer men who are concerned about their violent or controlling behaviour into the most effective and pointed community support services, we are concerned that South Australia does not currently have adequate services to meet existing demand, nor a potential increase in demand for services that may accompany the implementation of this legislation. South Australia currently has few services funded to work with men using violence. Those services that do exist are concentrated in Adelaide, with even fewer services available to men in regional and remote areas. Some areas of the state, such as Kangaroo Island, cannot access face-to-face services at all – meaning that men must travel long distances to access support, or rely exclusively on telephone or online counselling.

We know, from our 30 years of experience working with men who use violence, that in-person programs provide more opportunities to keep men in view of the system and to hold them accountable. While telephone counselling is a vital initial support, the evidence shows that men require holistic, wrap-around local services to provide the best chance of changing their behaviours. These services include place-based interventions that reflect the specific needs of the local community, and services that are equipped to work individually with diverse groups of men.

We are concerned that without significant investment to bolster the men's services sector, referrals made by SAPOL will place additional pressure on the family and domestic violence sector, homelessness and Alcohol and Other Drug sectors.

Particularly, we worry that men who present with significant and intersecting behaviours (such as substance abuse disorders, acquired brain injury or poor mental health) will not be able to access the support they need through telephone or online counselling, and that new referrals will result in longer waiting lists for services whose operations remain impacted by COVID-19.

During our stakeholder consultations, we heard that men's services in South Australia can be fragmented and hard to identify or connect with. The provision of additional funding, alongside targeted efforts to coordinate services, can help the South Australian Men's Family Violence sector shift to a coordinated services framework built on clear, definable intentions.

The funding requested, primarily supports a foundational approach which is required to underpin additional measures for men who use coercive control. It is our hope that by investing in this foundation, we can in turn gather practice evidence for more effective modelling that can then be expanded into regional South Australia. For example, a pilot program in metropolitan Adelaide can be used as a basis for new regional programming, as long as it is inclusive of efforts to understand the individual needs of our regions and their local service level requirements.

**Recommendation 11b: In our key election asks, No to Violence asked for an investment of \$1.8m-3m over three years into existing South Australian men's services.**

- This investment should be directed into expanding the MRS program in South Australia to cover the increased number of calls that will occur with the implementation of the new legislation
- An additional three to five 20-week MBCPs, including an expansion of existing services into under-served areas of regional South Australia. This cost is inclusive of staff required for intake, risk assessment, active holding on waitlists, facilitating the face-to-face programming and family safety contact work.
- This funding can also support staff in undertaking one to one counselling with men who are not yet ready to enter group programming

**Initiative 3: Expansion of existing crisis housing for perpetrators, to help keep victim-survivors safe in their homes, as part of a wider suite of perpetrator interventions.**

We commend the South Australian Government's commitment to keeping women safe and in their homes.

The 2020 announcement of a pilot to fund nine crisis beds for perpetrators, made as part of a \$40 million dollar investment aimed at tackling an ongoing shortage of crisis accommodation, is a strong demonstration of the government's commitment to innovation in the family and domestic violence sector.

This crisis housing service began in September 2020 and offered independent units to men who needed to remain separated from their families after referrals from police or child protection. Men were connected with counselling and given help securing housing and dealing with court proceedings. Limited public information is available on the outcomes of this pilot, which was a joint initiative through Offenders Aid and Rehabilitation Services and SA Housing. However, we note that this pilot was scheduled to complete at the end of 2021.

Given the South Australian Government's commitment to innovative and best-practice interventions, South Australia is well-placed to scale up its perpetrator accommodation work.

At No to Violence, we have a strong evidence base for best-practice perpetrator accommodation through our Men's Accommodation and Counselling Service (MACS) program, formerly known as PASS. This program works alongside MRS and supports men who have been excluded from the home to find both temporary accommodation and the counselling support they need.

In 2021, No to Violence commissioned EY Australia to conduct an evaluation of MACS/PASS. It found the service effectively provides temporary accommodation and associated supports to men who have

been excluded from the home, performing an important role in addressing a service gap within the specialist family violence service system.

Further, MACS/PASS was found to be effective in engaging a broad and diverse range of men who use violence, including Aboriginal and Torres Strait Islander men, men from a wide range of age groups, men from urban and regional areas and men from different cultural backgrounds.

Importantly, the evaluation found client engagement correlated to increased levels of stability and safety for the women and children identified as affected family members

Communicare's Breathing Space intervention in Western Australia is another example of the success that can be achieved with crisis housing for perpetrators. It combines behavioural change programming with the provision of perpetrator accommodation, as well as nine months of supported care after completion of the program.

Breathing Space provides 12 beds for men who use violence or abuse within the family and is a significant example of a best practice approach that holistically supports men to change their behaviour.

Based on the evidence from Victoria and Western Australia, we recommend that the South Australian Government considers further investment and adaptation of the crisis housing program for perpetrators. Any improvements or expansion should draw upon best practice as determined by evidence from other perpetrator interventions.

The funding should be sustainable and adequate, to avoid additional pressures on the homelessness sector and to ensure all participating perpetrators are provided with a sufficient and appropriate level of case management.

No to Violence is always committed to partnering with local South Australian non-government organisations. This could include partnerships with metropolitan and regional homelessness services, to help form new referral pathways and to provide suitable crisis accommodation locations.

We could also seek to partner with Aboriginal Community Controlled Organisations that can support us in responding to First Nations men in culturally safe and informed ways through the provision of MBCPs and individual counselling services.

Further, MACS recently engaged a Family Safety Practice Lead who is co-located at the Victorian state-based 24/7 family violence response centre. This is an integrated service systems role, providing holistic family violence services to 'families' impacted by FDV.



We believe a similar position would work well in South Australia, to ensure the families of men connected to these services remain supported and in view and we recommend the South Australian Government considers further investment into the expansion of this vital service.

**Recommendation 11c: In our key election asks, No to Violence asked for an investment of \$5.508m over three years to expand existing crisis housing for perpetrators, with the amount to cover:**

- Staffing (\$ 508,000 per annum for 5 program staff, inclusive of a Program Manager, Project Officer and three MACS telephone counsellors)
- Establishment costs (one-off cost of \$30,000)
- Management and administration (\$140,000 per annum)
- An additional FTE to support direct service and administration of crisis housing response (\$170,000 per annum)
- Family Safety Practice Lead co-located with Women's Safety Services SA (\$170,000 per annum)
- Brokerage (\$682,000 per annum)
- Workforce development (\$36,000 per annum)
- Evaluation activities (\$120,000 per annum)

#### **Initiative 4: Funding for the development of age-appropriate young perpetrator programs**

No to Violence consultees voiced that young perpetrators, aged 18-25 years, should be a priority focus for intervention programs. Evidence suggests the prevalence of violence by young men in Australia appears to be increasing. Despite this, South Australia, like most jurisdictions, is completely devoid of specialist services for young people who perpetrate family violence. These young men are referred into adult behavioural change programs. Young people identified as perpetrators often have complex backgrounds including a history of trauma and abuse. As such, many young men who use violence often have co-existing mental health challenges or disabilities. Additionally, practice in this area can be complicated by issues of misidentification of the predominant aggressor.

No to Violence is advocating for funding for young perpetrator services so that young people identified as perpetrators receive age-appropriate, needs-based services. The men's services sector also requires specialised training on working with this cohort.

**Recommendation 11d: Targeted funding for young perpetrator services, so that:**

- Age-appropriate programs can be developed
- The workforce receive training to specialise in working with this age group

#### **Question 12: Are there any gaps in the services currently available to perpetrators of coercive control?**

In short, South Australia does not have sufficient perpetrator services. Existing services are not keeping up with demand. Programs have long waitlists, meaning that men have to wait up to six



months to enter into a behavioural change program, over which time a significant number drop out and do not attend, when a place become available for them. The criminalisation of coercive control will presumably increase the number of men referred to MBCPs and other interventions; thus No to Violence strongly advocates for significantly increased funding for all perpetrator services.

Additionally, No to Violence has identified three important gaps in the availability of services for perpetrators of coercive control. Note that recommendations for filling these gaps are made in the below section.

**Recommendation 12: Increased funding to all perpetrator services to enable services to respond to increased demand stemming from the criminalisation of coercive control.**

### **Gap 1: Inconsistency in knowledge and skills on coercive control within the perpetrator workforce**

As identified previously in this submission, there is inconsistency in knowledge and skills on coercive control within the DFV sector. With ongoing expansion of our understanding of coercive control and the pervasive role this plays in DFV, there is a need for upskilling the workforces who identify and work with perpetrators. This includes and extends beyond the perpetrator intervention workforce, to ancillary services that work with men who use violence including AOD, community health and mental health practitioners, social workers and counsellors working directly with men in corrective services, child protection services, MBCPs, court programs and specialist family violence policing.

### **Gap 2: A lack of services for men who use coercive controlling behaviours without physical violence**

There is a gap in the South Australian landscape for perpetrator intervention programs specifically aimed at perpetrators who use coercive controlling behaviours but not physically violent behaviours. We endorse the South Australian Government's statement that counselling and treatment programs for men who use coercive control in the absence of physical and other forms of violence would be a useful addition to the current suite of perpetrator responses. Since the primary trigger for entry to perpetrator interventions currently is physical violence or threat thereof, the introduction of these new programs would necessitate substantial changes to policing and referral processes.

### **Gap 3: Inadequate and inconsistent funding to support the families and children of those enrolled in perpetrator intervention program.**

Working with perpetrators to change their attitudes and behaviour contributes to supporting the safety of victim-survivors and children. Men's family violence interventions aim to keep perpetrators in view of the system and hold them accountable – all with the end goal of keeping women and children safe. When men enter an MBCP or other intervention, they receive on-going support through one-on-one counselling and referrals to ancillary services. No to Violence believes adequate and consistent funding is needed so the people directly affected by men's violence – overwhelmingly women and children – receive the support they need.

In many Australian states, partner and affected family member safety work (AFM Safety work) is a fundamental foundation of MBCP practice standards and could be used as a template for South Australia. It is intended to ensure the women and children affected by a man's use of violence are safe, and that safety and risk is always assessed and monitored. AFM Safety work can take many forms, but in its most effective form it is a comparable support system to case management. In this

system, a woman who is identified as an AFM of a man enrolled in an MBCP is assigned to a case manager. The case manager maintains regular contact with the AFM (fortnightly or weekly) for the duration of the program. This contact includes providing updates on the MBCP program and curricula, conducting on-going risk assessments to ensure the AFM is safe and probing to ascertain the extent to which the information being provided by the perpetrator to his case manager is true (i.e. whether his behaviour is really changing).

### **Question 13: Are there current specialist and mainstream service providers that could improve and/or tailor their current services for perpetrators of coercive control?**

#### **Fund No to Violence to increase the awareness and consistency of best practice knowledge and practice skills on coercive control, within the perpetrator workforce**

Training on coercive control is essential for the workforces that try to prevent and respond to family violence; including statutory agencies like the police, court staff and Magistrates, public sector employees and ancillary services that frequently encounter people using family violence.

No to Violence provides training to various industries and sectors: training that develops skills in identifying, interrupting and responding to men's use of domestic and family violence. We also support our members – more than 150 organisations and professionals – to deliver this training. The demand for training is increasing. In 2019-20, our team delivered training to 546 participants. In 2020-21 we delivered training to 1707 participants from 318 agencies across Australia.

Within our current suite of training programs, the Introduction to Working with Men using Family Violence program touches on coercive control, but is not sufficient as a stand-alone training on this topic. Practitioners need specific and directed training to identify and respond to instances of coercive control. No to Violence recommends the South Australian Government fund No to Violence to develop and deliver a new suite of training packages on coercive control to be included within the implementation package attached to this new legislation. The suite would build on material presented in the Introduction to Working with Men using Family Violence, refine it for the South Australian context and include tailored delivery to specific workforces, including perpetrator intervention workforces, AOD, community health and mental health practitioners, children protection services, family law mediators and so on.

**Recommendation 13: Funding for No to Violence to develop and deliver a new suite of training packages on coercive control to be included as part of the legislation implementation package.**

#### **Consult with perpetrator intervention services to address the lack of services for men who use coercive controlling behaviours without physical violence**

As stated previously, there is a gap in the South Australian landscape for perpetrator intervention programs specifically aimed at perpetrators who use coercive controlling behaviours but not

**Recommendation 14: Consultation with perpetrator intervention services regarding their willingness and ability to include programs aimed at perpetrators who use coercive control without physical or other forms of violence, and to ascertain the magnitude of funding that such programming would require.**

physically violent behaviours. We suggest the South Australian Government consult with perpetrator intervention services regarding their willingness to include this new type of program and the magnitude of funding that would require.

**Fund perpetrator interventions services to adequately and consistently support the families and children of those enrolled in perpetrator intervention programs**

As discussed in Question 12, perpetrator intervention services do not adequately and consistently support the families and children of men enrolled in perpetrator intervention programs. Therefore, No to Violence strongly advocates that South Australian perpetrator intervention services are funded to establish a baseline of family safety contact practice, including pre- and post-Covid-19 periods.

**Recommendation 15: Funding for perpetrator intervention services to establish a baseline of family safety contact practice, including pre- and post-Covid-19 periods.**

## General questions

### Question 14: Is there anything else that should be considered as part of implementing a criminal offence relating to coercive control?

It is likely this legislation will have a disproportionate impact on Aboriginal families and other marginalised groups. No to Violence and our allies are concerned that marginalised groups might not be well represented in this submission process and that the legislative changes may result in further overrepresentation of Aboriginal and Torres Strait Islanders in prisons. We recommend the ongoing reform of police practices and procedures, as well as police culture, together with a greater commitment to the development of collaborative projects (such as justice reform initiatives), to address the overincarceration of South Australian Aboriginals whilst still supporting victim-survivors. Further, we recommend a specific consultation process be conducted with South Australian Aboriginal and Torres Strait Islanders to inform the legislative changes and implementation phase.

**Recommendation 16: To ensure this legislative change does not result in further overrepresentation of Aboriginal and Torres Strait Islanders in prison, No to Violence recommends:**

- the ongoing reform of police practices and procedures, as well as police culture, together with a greater commitment to the development of collaborative projects (such as justice reform initiatives), to address the overincarceration of South Australian Aboriginals whilst still supporting victim-survivors.
- A consultation process should be conducted with Aboriginal and Torres Strait Islander groups in South Australia to inform the legislative changes and implementation phase.

## Concluding statement

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No to Violence appreciates the opportunity to provide our experience and expertise in relation to the implementation of this important legislation.

We support a systemic response to coercive control and wish to ensure that the South Australian Government also considers submissions from our sector.

Criminalisation will not in and of itself end men's use of coercive control.

We can only hope to end men's family violence, in all its forms, when we have a holistic and responsive service system that supports men in all their diversity, to change their attitudes and behaviours.

Criminalisation of coercive control without the necessary supports runs the very real risk of further marginalising already marginalised people and communities who already experience higher rates of family violence and may not be connected to the service system.

This could result in even longer waiting periods for men to enter behaviour change programs and other vital interventions.

If such legislation is to be introduced, it is important to consider ways of ensuring that we do not inadvertently disincentivise victim-survivors from seeking help.

We stand ready to work with the South Australian Government to consider its implementation plan and would appreciate the opportunity to provide further input.



**Discussion Paper:**  
**Implementation considerations**  
**should coercive control be**  
**criminalised in South Australia**

Released by AGD, under the FOI Act 1991 (SA)



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Released by AGD, under the FOI Act 1991 (SA)

## Foreword

Domestic and family violence (DFV) continues to be a blight on our community. In South Australia during 2020 there were 9,451 recorded victims/survivors of DFV related assault and sexual assault.<sup>i</sup>

Unfortunately, many more DFV behaviours go unreported to police or DFV support services. This includes coercive and controlling behaviours, such as isolating a person from their friends and family and denying financial autonomy. While these behaviours have long been recognised as an integral part of DFV, criminal justice responses have traditionally focused on physical violence.

There is growing momentum across Australia and internationally to consider new offences to criminalise coercive and controlling behaviours that are not covered within existing criminal offences. In jurisdictions where such offences exist, feedback has stressed the importance of the implementation process to ensure the offences operate effectively within the community. Key implementation measures include community awareness raising, education and training for the legal and DFV service sectors, and services for victims/survivors and perpetrators.

Currently, coercive control is not a specific criminal offence in South Australia. However, given the recent focus on this issue, the Attorney-General's Department is currently considering what implementation processes would be needed should coercive control be criminalised in South Australia.

I encourage you to consider the questions in this discussion paper and have your say to help us improve the safety and wellbeing of South Australian DFV victims/survivors and their children.

Caroline Mealor  
Chief Executive,  
Attorney-General's Department

## Introduction

Consultation on a proposed South Australian offence of coercive control was conducted during September and October 2021. There were 173 respondents to a public survey, with more detailed submissions received from 31 individuals and organisations.

The feedback noted the importance of the implementation process. Suggestions included training for enforcement agencies to identify, charge and prosecute coercive control, a public awareness campaign, wrap-around support services for victims/survivors and counselling and treatment services for perpetrators. Respondents also advocated a focus on regional and remote victims/survivors, Aboriginal<sup>ii</sup> people, and the migrant community.

This discussion paper seeks feedback on proposed implementation measures. We seek your views on this approach and any other feedback you may have on how to support implementation of a coercive control offence, should it be introduced.



## How to make a submission

Submissions in response to this discussion paper can be made until 1 April 2022. Individuals and organisations can make a submission (confidentially if desired) by email to [agdpolicyandanalytics@sa.gov.au](mailto:agdpolicyandanalytics@sa.gov.au).

This discussion paper poses a number of questions. You may respond to all questions, or only those that are of interest to you. You may also raise any additional relevant matters.

## What is coercive control?

Coercive control has not been officially defined in South Australia. It is understood to be an insidious form of DFV that involves tactics of emotional and mental abuse which undermine the victim's autonomy and sense of identity. Coercive and controlling behaviour may include isolating a person from their friends and family, controlling finances, controlling what a person can or can't say, controlling what a person can wear, when they can sleep, what they can eat and when they can leave the house. The NSW Parliament Joint Select Committee on Coercive Control inquiry heard that "victims/survivors often describe it as more harmful and long-lasting than physical abuse. Respondents spoke of the 'isolation, subordination, humiliation and loss of liberty occasioned by coercive control' and noted that it has been linked to psychiatric outcomes including suicidality, depression and post-traumatic stress disorder".<sup>iii</sup>

Disturbingly, coercive control is also a common factor in intimate partner homicides, even though this type of behaviour does not always involve physical violence. Analysis undertaken by the NSW Domestic Violence Death Review Team identified that, among 112 incidents of intimate partner homicide between June 2000 and July 2021, coercive control was a feature of the relationship in all but one case. A number of these cases did not have any evident history of physical abuse.<sup>iv</sup>

Despite the significant harm caused by coercive and controlling behaviours, victims/survivors are unlikely to seek help if they had not also experienced physical or sexual forms of abuse. They may be prevented from seeking help because the perpetrator isolates them from friends and family and restricts access to the phone and internet.<sup>v</sup>

Some victims/survivors may not believe they are experiencing violence, or minimise their experience, because non-physical violence has traditionally been viewed to be less harmful or traumatic than physical or sexual violence.<sup>vi</sup>

### Case Study - Robin<sup>vii</sup>

Robin has physical disability that affects her mobility and hands. Her partner started caring for her many years ago when there weren't many service options around. He tells Robin she does not have to worry about anything and that he can use her email address and phone to manage all her appointments and her finances for her. He does all her shopping for her online with her bank card and Apple Pay.

Early in the relationship Robin's partner sold their van that Robin relied on for accessible transport because he said her needs were expensive, so she

doesn't get to leave the house much. When Robin asks for a taxi or lift into town to see her sister, her partner calls her ungrateful and reminds her that none of her family are patient enough to deal with her like he is. They end up spending most days together and Robin will encourage him to purchase something special for himself the next time he goes shopping as a 'thank you'.

## Interstate and international approaches

In considering how to implement a new coercive control offence in South Australia it is helpful to look to the approaches taken in other Australian jurisdictions as well as overseas.

### Tasmania

Tasmania is the only Australian state to currently have legislated offences relating specifically to coercive control. In 2004, the Tasmanian Government passed the *Family Violence Act 2004* (Tas) introducing two new criminal offences – economic abuse (section 8) and emotional abuse (section 9). The Act was implemented alongside the Safe at Home Policy – a whole of government approach to coordinating criminal justice responses to DFV, with victim/survivor safety as the overarching goal.<sup>viii</sup>

Tasmanian coercive control offences have not been prosecuted often. In the 12 years after commencement to the end of 2017, 73 charges had been finalised with 40 convictions. Some explanations for the low number of prosecutions include resistance from the legal profession, difficulties in obtaining evidence (because it is often undocumented and occurs within a private setting with no independent witnesses), lack of community awareness and deficiencies in training and resources provided to police.<sup>ix</sup> These factors will be considered in the development of an implementation plan for South Australia.

### New South Wales

The New South Wales Government is currently considering the recommendations in the June 2021 report of the NSW Parliament Joint Select Committee on Coercive Control inquiry. The Committee recommended the criminalisation of coercive control and made a number of recommendations regarding the implementation of an offence.

Of note, the Committee recommended a considerable program of education, training and consultation with police, stakeholders and the frontline sector before the commencement of a criminal offence. The Committee also recommended awareness campaigns about coercive control as a priority, and consideration of improving resources for victim/survivor housing and legal services, and behaviour change programs for perpetrators.<sup>x</sup>

## England and Wales

The England and Wales *Serious Crimes Act 2015* introduced a new offence of 'controlling or coercive behaviour in an intimate or family relationship'. The legislation refers to coercive and controlling behaviour that is repeated or continuous, moving away from incident focused behaviour to a 'course of conduct'.<sup>xi</sup>

Training entitled Domestic Abuse Matters was delivered to 14 police forces in England and Wales in response to the criminalisation of coercive control. An evaluation of Domestic Abuse Matters conducted in 2020 found that targeted, in-person training, when supported through peer support networks and ongoing professional development, can assist officers to better understand, recognise and respond to signs of coercive control. Notably, the study found attendance at the coercive control training was associated with a 41% increase in arrests for coercive control, with this effect remaining for up to eight months after training was completed.<sup>xii</sup>

## Republic of Ireland

A coercive control offence commenced in the Republic of Ireland in January 2019. A person commits the offence if they knowingly and persistently engage in behaviour that is controlling or coercive and which a reasonable person would be likely to consider to have a serious effect on a relevant person.<sup>xiii</sup>

Of relevance to South Australia's implementation approach, the first conviction for the offence occurred in February 2020, more than one year after the offence commenced,<sup>xiv</sup> with lack of police training cited as one possible explanation for the delay. At the time of commencement, the Association of Garda Sergeants and Inspectors (AGSI) in the Republic of Ireland noted that its members had received no training in how best to enforce the new laws. AGSI called on the Garda Commissioner to prioritise training as a matter of urgency, stating "appropriate training delivered in advance of legislation being implemented will ensure the public receive the best possible policing service."<sup>xv</sup>

## Scotland

The Scottish *Domestic Abuse Act 2018* commenced in 2019. The Act criminalises a course of abusive behaviour by a perpetrator against their current or former partner. The offence is treated as aggravated if the behaviour is directed at a child or they make use of a child as part of the course of abusive behaviour.<sup>xvi</sup>

The Scottish experience is instructive for South Australia. In addition to protection under the law, a broader systemic response was implemented, including increased investment in police training, a community awareness program and training for other professionals involved in the system such as prosecutors, lawyers and judges.

The intensive police training conducted in the lead up to the commencement of the legislation included how to identify coercive and controlling behaviours, understanding and awareness of the dynamics of DFV and perpetrator tactics used to manipulate victims/survivors and first responders. The training was delivered as an interactive online learning package, with additional training for the police leadership and attitudinal change champions.<sup>xvii</sup>

In the first year of operation, 246 people were prosecuted and 206 (84%) were convicted of the offence.<sup>xviii</sup> This is a sharp contrast to the Republic of Ireland which had no convictions in the first year.

## **Coercive control implementation considerations**

The following four areas have been identified to support a coercive control criminal offence, if it were to be introduced:

1. Awareness raising and engagement
2. Education and training
3. Supports and services for victims/survivors
4. Appropriate responses to and for perpetrators

The experience of coercive and controlling behaviours can be vastly different for DFV victims/survivors from CALD, Aboriginal and LGBTIQ+ communities, victims/survivors in remote and regional areas, elderly victims/survivor, and those living with disability. There can be a fear of discrimination and of not being believed, previous negative experiences in accessing services or reporting to police, cultural barriers, and isolation from appropriate supports. For this reason, implementation should also include a focus on inclusivity and the special needs of diverse and vulnerable groups.

The feedback received also stressed the importance of involving victims/survivors of DFV in any implementation process. To achieve this, victims/survivors of DFV will be separately engaged to provide a voice of lived experience.

## **Awareness raising and engagement**

Coercive control is a complex concept, challenging many existing beliefs and attitudes about DFV, such as the view that it consists only of physical violence. Overwhelmingly, feedback received indicated low awareness of coercive control in the South Australian community, and the need for awareness campaigns to increase understanding and encourage victims/survivors to come forward.

## Current initiatives

In South Australia, a number of campaigns have successfully raised community awareness of DFV. Using Snapchat, Instagram and TikTok, the Break the Cycle Campaign raised awareness of the different forms of abuse and told people how to get support in the first wave of COVID-19.

The Break the Cycle website was launched in June 2020 as a one-stop-shop for all DFV information in South Australia. It provides information and resources for victims/survivors and perpetrators, including topics on coercive controlling behaviours such as emotional, verbal, psychological and financial abuse. Support materials available on the website have also been translated into 25 languages.<sup>xix</sup>

A second Break the Cycle campaign ran between July and September 2021, on television, radio, digital and social media platforms. For the first time, QR codes were included on print advertising, allowing quick and direct access to support networks if needed.<sup>xx</sup>

The *See it for what it is. Stop Sexual Violence* campaign was also launched at the end of 2020. The campaign was notable for its use of the dating app Tinder to send out the message that all forms of violence are unacceptable and there is help available.<sup>xxi</sup>

In addition to media campaigns, the *Keeping Safe: Child Protection Curriculum* child safety program is provided to children and young people from age 3 to year 12. The program teaches children to recognise abuse and understand ways of keeping themselves safe. The curriculum includes content relevant to coercive control such as:

- healthy and unhealthy relationships and the representation of relationships within popular media
- the social construction of gender, gender stereotypes and expectations
- the types of power and the way power is used in different contexts.

## Options to target coercive control

The Legal Services Commission has been provided with additional funding of up to \$507,500 over two years to support coercive control initiatives, including \$50,000 to develop a community awareness campaign in 2022. The campaign will provide the following information:

- i. what are coercive control behaviours and how to identify them
- ii. where to get help, including crisis support services, social support services (including legal services)
- iii. any other information that may be relevant for the purpose of raising awareness.

Recognising the diversity of languages and cultures across South Australia, information about coercive control and the new offences will be provided on multiple platforms, including social media, and in a range of formats and languages. Consideration also needs to be given to the provision of information to people living with disability.

This discussion paper seeks feedback on how we can ensure all communities in South Australia receive this important information.



### Questions:

1. What are the key messages that should be communicated about coercive control?
2. What are the best mediums to communicate information about coercive control to your community?

### Case Study - Zara<sup>xxii</sup>

Zara has been with Adam for over two years. At the beginning of their relationship they were very social, and often spent time with friends, family and colleagues. However, over time, things started to change. Adam started to monitor her whereabouts. He would get upset if she didn't constantly check in with him ... He didn't like her going out with friends because he didn't want her to talk to other men.

He would make comments about her appearance and tell her that she should be grateful to have him because no one else would want her. ... He became controlling over what she wore and wouldn't let her wear certain clothes because he didn't want other men looking at her.

Over time, Zara stopped seeing her friends and rarely saw her family. ... She stopped speaking to her colleagues at work and stopped going on work trips or nights out. She was afraid Adam would be angry if he found out she was talking to them because he said he didn't like them and said she shouldn't spend time with people like that. She felt anxious, depressed and constantly on edge. She felt like she was walking on egg shells and worried about upsetting Adam. She didn't want to tell her friends or family because she worried they wouldn't believe her. She thought that since he

wasn't physically violent, then it must not be that bad.

### Education and training for first responders, the legal sector and service providers

A common theme in the feedback received was the importance of education and training about coercive control. Some respondents felt the South Australian legal response focused on physical violence and lacked an understanding of the nature of coercive control and the harms it can cause. Research papers on coercive control also note the need for education and training to be delivered beyond the legal sector (police officers, prosecutors and judicial officers), to emergency workers and workers in DFV services, health care, housing, education and child protection sectors.<sup>xxiii</sup>

### Current initiatives

DFV related training and education for the justice sector is currently conducted within SA Police and the Courts Administration Authority.

SA Police has a raft of training and practices designed to enhance the policing response to DFV. SA Police policies provide guidance for frontline officers about the management of a DFV incident, and the gathering of available physical evidence. This includes preserving the scene of a crime, undertaking investigations, identifying all relevant witnesses, and instigating prosecutions and intervention orders.

The Magistrates Court holds Judicial Education Days four times per year, and an annual *All Courts Judicial Development Day*. In July 2020, award winning author and investigative journalist Jess Hill, author of *'See What You Made Me Do'*, gave a presentation to all Magistrates entitled *'Power, Control and Domestic Abuse'*, focused on understanding coercive control, its characteristics and impacts. The session discussed approaches and strategies to appropriately obtain evidence from a person seeking, or protected by, an Intervention Order who has been subjected to coercive control and to assist in identifying within a courtroom setting whether an applicant for an Intervention Order may have been a victim/survivor of coercive control.

Beyond the justice sector, the Department of Human Services has funded *No to Violence* to deliver workforce development sessions four times per year to frontline case workers providing support outside the DFV sector, for example, health workers or drug and alcohol workers. The sessions will help caseworkers to identify DFV perpetrators in the course of their work and respond appropriately.

### Options to target coercive control

Additional funding of up to \$507,500 over two years has been allocated to the Legal Services Commission for coercive control initiatives, including funding to engage with and educate health and welfare professionals on signs of coercive control in patients and clients, with referral to relevant legal assistance providers where appropriate. This engagement will also extend to other professions, such as the South Australian Hair and Beauty Association which is the professional body for hairdressers and beauticians.

In relation to training of the justice sector, a new coercive control offence would require changes in approach to both the investigation and prosecution, for example, identifying and gathering evidence for a course of conduct rather than a single incident.<sup>xxiv</sup> The intensive police training process conducted in Scotland in the lead up to the commencement of their coercive control legislation is often cited as best practice.

There is also a need for extensive training on the nature of coercive and controlling behaviour and the different ways victims/survivors may respond to trauma. Research and inquiry submissions have reported concerns about possible unintended consequences of criminalising coercive control. A key concern identified is the potential for manipulation by or misidentification of the perpetrator when police first arrive at a crisis situation, leading to the victim/survivor being identified as the primary aggressor.<sup>xxv</sup> Training should include a focus on how to avoid any potential unintended consequences of the new offences.<sup>xxvi</sup>

We heard that training should be developed by experts in DFV including people with lived experience and include information about the precursors of DFV, gender-based violence, the experiences of DFV across different groups within the community, such as the LGBTIQ+ community, people with disabilities, CALD communities, the elderly, and Aboriginal peoples, how victims/survivors may respond to trauma and how perpetrators may respond to intervention. Regular refresher training should also be provided to ensure the lessons are reinforced over time and new information/approaches are communicated.

As a first step, this discussion paper seeks feedback on the current DFV education and training available and whether there are any gaps in relation to coercive control. This information will help us to identify additional education and training modules that might be needed to improve understanding of and responses to coercive control and DFV in general. It will also ensure we build on the extensive education and training already provided and avoid duplication.

### Questions:

3. How is coercive control understood by you and more broadly within your community?
4. If it were made an offence, what might this mean to you and the people around you?
5. If you were concerned about the use of coercive control as an individual, or on behalf of someone else, what systems and services would you approach for support or advice?
6. What education and training is needed to improve the justice sector's understanding of coercive control and detect, investigate and prosecute coercive control appropriately?
7. What education and training is needed for organisations that work with victims/survivors and perpetrators of coercive control e.g. in health, housing, education, etc.?

### Support services for victims/survivors

The feedback received suggested the need for increased support services to DFV victims/survivors, including emotional support services and practical assistance such as accommodation services.

### Current services for DFV victims/survivors

Since 2019 the Commissioner for Victims' Rights has been the central point of contact for victims/survivors, to coordinate their access to services and to support them to navigate the criminal justice system. Additionally, a new Victims Of Crime SA website was launched in October 2020 which brings together information for victims/survivors, including what to expect in the criminal justice process and information about support services. This information is also published in the *'Information for Victims of Crime'* booklet which is disseminated by SA Police upon first contact with victims/survivors.

A range of services and supports are available to victims/survivors of DFV. Supports include crisis support, legal assistance, and help to navigate through the criminal justice system – from initial report and investigation to court support, victim impact statements and counselling, to parole and victim/survivors safety planning.

Information about specific DFV and sexual assault support services is available from [www.sa.gov.au](http://www.sa.gov.au).

### **Recent initiatives include:**

Opening of the seventh women's safety hub located in Whyalla, adding to existing regional hubs reaching from Mount Gambier to Berri and Port Augusta. Hubs are tailored to each region, with all providing information and referrals for DFV support, housing, police and legal matters, family intervention, financial counselling, mental health medical services or drug and alcohol services. Most also offer private drop-in spaces with phone or computer access – a vital service for women who are not able to freely seek information or access services in their own home.<sup>xxvii</sup>

31 new crisis accommodation beds for South Australians impacted by DFV across Adelaide and the regions, including 17 in regional areas in Limestone Coast, Murray Mallee and Eyre and Western.<sup>xxviii</sup>

The *Supporting Parents' and Children's Emotions Program*, which provides early intervention support to young parents aged between 12 to 25 years, who are experiencing or perpetuating DFV. The program is run through the Women's and Children's Health Network, as a specialised add-on to its *Young Parents Program*.

Additional funding to the *Domestic Violence Disclosure Scheme* (DVDS) to mid-2024. The DVDS is a free and confidential online application to help people at risk find out if their partner has a history of violent offending or other relevant information, such as previous intervention orders. Persons feeling at risk are also connected with specialist DFV support, whether or not there is information for police to disclose, providing help to make an informed safety plan. Further expanding the scheme from a 'Right to ask' to a 'Right to know' model is also being explored.<sup>xxix</sup>

Funding in the amount of \$603,000 has been provided to the Department for Correctional Services (DCS) to keep high risk victims/survivors of DFV informed of changes to the circumstances of their perpetrator who is in the custody or under the supervision of DCS.

### **Options to target coercive control**

Increased awareness of coercive and controlling behaviours will likely have an immediate impact on DFV and legal service providers.

Women's Safety Service (SA) (WSSSA) is funded to operate the 24/7 Domestic Violence Crisis line, which provides information and advice and support to develop a safety plan. Additional funding of \$600,000 has been provided to WSSSA to enhance its existing service to include a quick response coercive control assessment, and to provide information and referral to other support services.

The additional funding to WSSSA includes \$3,000 to develop a new (or amend the current) risk assessment tool to assess the coercive control risk factors of persons who contact the Crisis Line. The new tool will link with the existing common DFV Risk Assessment form, which has been used by government and non-government agencies since 2014 to determine the current level of risk to a victim/survivor and any children, and to guide decision making on the type and urgency of response required. The use of a common, agreed risk assessment means that all agencies have a uniform understanding of risk factors and risk levels, to better inform responses and support.

One of the legal remedies to support victims/survivors to mitigate or address coercive control behaviours is an Intervention Order. Victims/survivors can apply to the court to prohibit the perpetrators from engaging in coercive or controlling behaviours against them. All community legal assistance providers, such as the Aboriginal Legal Rights Movement and Women's Legal Service SA, can support an individual seeking an intervention order.

The Women's Domestic Violence Court Assistance Service (WDVCAS) is a statewide free legal assistance service

run by the Legal Services Commission, dedicated to supporting women to navigate the Magistrates Court process of applying for, varying or revoking an Intervention Order. Additional funding of up to \$507,500 over two years has been allocated to the Legal Services Commission for coercive control initiatives, including funding to increase the capacity of WDVCAS to assist victims/survivors experiencing coercive control.

Properly addressing coercive control requires services to be easily accessible and visible via strong referral pathways and no red tape or duplication. This discussion paper seeks feedback on current services, including DFV services, available and their ability to respond to victims/survivors of coercive control. This information will help us to map existing services, to determine gaps, duplications and opportunities for improvements.

#### Questions:

8. What types of coercive control services should be prioritised?
9. Are there any gaps in the services currently available to victims/survivors of coercive control?
10. Are there any current specialist and mainstream service providers that could improve and/or tailor their current services for victims/survivors of coercive control?

#### Case Study - Sanaya<sup>xxx</sup>

Sanaya married when she was 18 and came to Australia with her husband and young child. Sanaya's husband tells her



negative stories about other women and communities and insists Sanaya stay away from other mums who talk to her at school drop off and pick up. When Sanaya started her first job she was told to quit after only a few months. Her husband said she was failing as a mother and had abandoned their child. Now, when Sanaya goes out, her husband encourages her to send happy selfies of herself and their child to verify her location. Sanaya is aware that he uses her phone to track her location. When Sanaya arrives home, she feels interrogated about where she's been and who she's spoken with, so she prefers to only go out as a family to avoid confrontation.

### **Appropriate responses to and for coercive control perpetrators**

The feedback received noted the need for counselling and treatment services for perpetrators of coercive control. Respondents suggested that some perpetrators may have a lack of understanding about the seriousness and impact of their behaviour.

### **Current services for DFV perpetrators**

There are a range of services available to the Court and in the correctional system which provide therapeutic intervention to perpetrators of DFV. There is also a dedicated phone line where perpetrators, frontline workers and friends, family and community members can call when they are concerned with the perpetrator's use of violence.

Under section 13 of the *Intervention Orders (Prevention of Abuse) Act 2009*, the Magistrates Court can mandate assessment for and participation in an Abuse Prevention Program (APP) for alleged DFV offenders either as a condition of bail or an Intervention Order. During 2020-21 there were 706 referrals to the APP. Approximately \$668,400 per year is provided by the Courts Administration Authority to run:

- face-to-face group counselling.
- weekly individual counselling for men who are not considered suitable for group participation. This includes men with cognitive impairment or low levels of English language proficiency.
- a culturally safe program for Aboriginal men.

The Department for Correctional Services operates five programs targeting perpetrators of DFV, at a cost of \$9 million per year. These are:

- *The Domestic and Family Violence Intervention Program* and the culturally responsive *Aboriginal Men's Family Violence Program*.
- A suite of Violence Prevention programs (VPP) targeting perpetrators of violent offending, such as gang violence, homicide, kidnapping and armed robbery. Each of these programs includes a focus on identifying and challenging attitudes supportive of DFV and the dynamics of intimate partner violence. The VPP for Aboriginal men includes a co-facilitation model where Aboriginal staff deliver the program alongside clinical staff from

the DCS Rehabilitation Programs Branch.

- *The Cross Borders Indigenous Family Violence Program (CBIFVP)* operates as a tri-state partnership between South Australia, Western Australia and the Northern Territory, with funding contributed from the Australian Government. The CBIFVP receives referrals from police, courts and corrections for men who live in remote Anangu Pitjantjatjara Yankunytjatjara or Ngaanyatjarra Pitjantjatjara Yankunytjatjara communities. The program aims to reduce the incidence of DFV through culturally responsive approaches, including delivering in local language, having a cultural broker present, and challenging attitudes and behaviours in culturally appropriate ways.

## Further considerations

Controlling behaviour is recognised as a foundational aspect of DFV and it is likely that it is already addressed, at least to some extent, in current perpetrator programs.<sup>i</sup> It is noted, however, that the primary trigger for entry to these programs is physical violence or threat. Counselling and treatment programs aimed specifically at coercive control perpetrators who do not use physical violence may be a useful addition to the current suite of perpetrator responses.

This discussion paper seeks feedback on existing perpetrator services and programs. This will enable us to determine opportunities for improvements in the context of coercive control.

### Questions:

11. What types of perpetrator services should be prioritised?
12. Are there any gaps in the services currently available to perpetrators of coercive control?
13. Are there any current specialist and mainstream service providers that could improve and/or tailor their current services for perpetrators of coercive control?

### General questions:

14. Is there anything else that should be considered as part of implementing a criminal offence relating to coercive control?

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<sup>i</sup> ABS Recorded Crime Victims 2020

<sup>ii</sup> In South Australia, Aboriginal is used to describe Aboriginal and Torres Strait Islander peoples.

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- iii Coercive control in domestic relationships Parliament of New South Wales Joint Select Committee on Coercive Control Report 1/57 June 2021 p 15. Report - coercive control in domestic relationships.pdf (nsw.gov.au)
- iv NSW State Coroners Court 2020
- v Boxall H & Morgan A 2021. *Experiences of coercive control among Australian women*. Statistical Bulletin no. 30. Canberra: Australian Institute of Criminology. <https://doi.org/10.52922/sb78108>
- vi ANROWS , Attachment 1, Policy Brief: Defining and responding to coercive control, p2 in Coercive control in domestic relationships, Submission 96 to Parliament of New South Wales Joint Select Committee on Coercive Control Report 1/57 June 2021 p 3. Report - coercive control in domestic relationships.pdf (nsw.gov.au)
- vii Case study provided by Disability Advocacy and Complaints Service of South Australia Inc. The case study has been de-identified and formulated for the purpose of this discussion paper and is representative of common lived experiences
- viii Australia's National Research Organisation for Women's Safety. (2021). Defining and responding to coercive control: Policy brief (ANROWS Insights,01/2021). Sydney: ANROWS. p 4
- ix Qld Women's Safety and Justice Taskforce: Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p 36
- x Coercive control in domestic relationships Parliament of New South Wales Joint Select Committee on Coercive Control Report 1/57 June 2021. pp xiv to xvi Report - coercive control in domestic relationships.pdf (nsw.gov.au)
- xi Australia's National Research Organisation for Women's Safety. (2021). Defining and responding to coercive control: Policy brief (ANROWS Insights,01/2021). Sydney: ANROWS. p 5
- xii Qld Women's Safety and Justice Taskforce: Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p39
- xiii Qld Women's Safety and Justice Taskforce: Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p37
- xiv Australia's National Research Organisation for Women's Safety. (2021). Defining and responding to coercive control: Policy brief (ANROWS Insights, 01/2021). Sydney: ANROWS. p 6
- xv <https://www.irishtimes.com/news/crime-and-law/call-for-more-garda-training-to-enforce-new-domestic-violence-laws-1.3752299> in ibid 6

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<sup>xvi</sup> Australia's National Research Organisation for Women's Safety. (2021). Defining and responding to coercive control: Policy brief (ANROWS Insights, 01/2021). Sydney: ANROWS. p 6

<sup>xvii</sup> Qld Women's Safety and Justice Taskforce: 1 Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p 39

<sup>xviii</sup> Scottish Government 'Criminal Proceedings in Scotland, 2019-20', A National Statistics Publication for Scotland, ISBN:9781800049628, 18 May 2021, 4 in ibid, Qld Women's Safety and Justice Taskforce: 1 Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p 36

<sup>xix</sup> QR codes to help keep DV support in the spotlight | Premier of South Australia 30/6/21

Swipe right to combat sexual violence | Premier of South Australia 26 November 2020

<sup>xx</sup> QR codes to help keep DV support in the spotlight | Premier of South Australia 30/6/21

<sup>xxi</sup> Swipe right to combat sexual violence | Premier of South Australia 26 November 2020

<sup>xxii</sup> Think Business, Think Equality, Domestic Abuse Case study: Coercive control (thinkbusinessthinkequality.org.uk)

<sup>xxiii</sup> Coercive control in domestic relationships Parliament of New South Wales Joint Select Committee on Coercive Control Report 1/57 June 2021. pp xiv to xvi Report - coercive control in domestic relationships.pdf (nsw.gov.au)

<sup>xxiv</sup> Qld Women's Safety and Justice Taskforce: 1 Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p 36

<sup>xxv</sup> Push to criminalise coercive control in relationships sparks concern for migrant and refugee women (sbs.com.au)

<sup>xxvi</sup> Why we need a thorough consultation process on how to effectively address coercive controlling violence (wlsnsw.org.au)

<sup>xxvii</sup> More DV support for regional women than ever before | Premier of South Australia 12/10/21

<sup>xxviii</sup> Record domestic violence funding in SA | Premier of South Australia 7/2/21

<sup>xxix</sup> DV Disclosure Scheme records milestone | Premier of South Australia 26/10/21

<sup>xxx</sup> Case study provided by Disability Advocacy and Complaints Service of South Australia Inc. The case study has been de-identified and formulated for the purpose of this discussion paper and is representative of common lived experiences

**Discussion Paper:  
Implementation considerations  
should coercive control be  
criminalised in South Australia**

Released by AGD, under the FOI Act 1997 (SA)





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Released by AGD, under the FOI Act 1991 (SA)

## Foreword

Domestic and family violence (DFV) continues to be a blight on our community. In South Australia during 2020 there were 9,451 recorded victims/survivors of DFV related assault and sexual assault.<sup>i</sup>

Unfortunately, many more DFV behaviours go unreported to police or DFV support services. This includes coercive and controlling behaviours, such as isolating a person from their friends and family and denying financial autonomy. While these behaviours have long been recognised as an integral part of DFV, criminal justice responses have traditionally focused on physical violence.

There is growing momentum across Australia and internationally to consider new offences to criminalise coercive and controlling behaviours that are not covered within existing criminal offences. In jurisdictions where such offences exist, feedback has stressed the importance of the implementation process to ensure the offences operate effectively within the community. Key implementation measures include community awareness raising, education and training for the legal and DFV service sectors, and services for victims/survivors and perpetrators.

Currently, coercive control is not a specific criminal offence in South Australia. However, given the recent focus on this issue, the Attorney-General's Department is currently considering what implementation processes would be needed should coercive control be criminalised in South Australia.

I encourage you to consider the questions in this discussion paper and have your say to help us improve the safety and wellbeing of South Australian DFV victims/survivors and their children.



Caroline Mealor  
Chief Executive,  
Attorney-General's Department

## Introduction

Consultation on a proposed South Australian offence of coercive control was conducted during September and October 2021. There were 173 respondents to a public survey, with more detailed submissions received from 31 individuals and organisations.

The feedback noted the importance of the implementation process.

Suggestions included training for enforcement agencies to identify, charge and prosecute coercive control, a public awareness campaign, wrap-around support services for victims/survivors and counselling and treatment services for perpetrators. Respondents also advocated a focus on regional and remote victims/survivors, Aboriginal<sup>ii</sup> people, and the migrant community.

This discussion paper seeks feedback on proposed implementation measures. We seek your views on this approach and any other feedback you may have on how to support implementation of a coercive control offence, should it be introduced.

## How to make a submission

Submissions in response to this discussion paper can be made until 1 April 2022. Individuals and organisations can make a submission (confidentially if desired) by email to [agdpolicyandanalytics@sa.gov.au](mailto:agdpolicyandanalytics@sa.gov.au).

This discussion paper poses a number of questions. You may respond to all questions, or only those that are of interest to you. You may also raise any additional relevant matters.

## What is coercive control?

Coercive control has not been officially defined in South Australia. It is understood to be an insidious form of DFV that involves tactics of emotional and mental abuse which undermine the victim's autonomy and sense of identity. Coercive and controlling behaviour may include isolating a person from their friends and family, controlling finances, controlling what a person can or can't say, controlling what a person can wear, when they can sleep, what they can eat and when they can leave the house. The NSW Parliament Joint Select Committee on Coercive Control inquiry heard that "victims/survivors often describe it as more harmful and long-lasting than physical abuse. Respondents spoke of the 'isolation, subordination, humiliation and loss of liberty occasioned by coercive control' and noted that it has been linked to psychiatric outcomes including suicidality, depression and post-traumatic stress disorder".<sup>iii</sup>

Disturbingly, coercive control is also a common factor in intimate partner homicides, even though this type of behaviour does not always involve physical violence. Analysis undertaken by the NSW Domestic Violence Death Review Team identified that, among 112 incidents of intimate partner homicide between June 2000 and July 2021, coercive control was a feature of the relationship in all but one case. A number of these cases did not have any evident history of physical abuse.<sup>iv</sup>

Despite the significant harm caused by coercive and controlling behaviours, victims/survivors are unlikely to seek help if they had not also experienced physical or sexual forms of abuse. They may be prevented from seeking help because the perpetrator isolates them from friends and family and restricts access to the phone and internet.<sup>v</sup> Some victims/survivors may not believe they are experiencing violence, or minimise their experience, because non-physical violence has traditionally been viewed to be less harmful or traumatic than physical or sexual violence.<sup>vi</sup>

### Case Study - Robin<sup>vii</sup>

Robin has physical disability that affects her mobility and hands. Her partner started caring for her many years ago when there weren't many service options around. He tells Robin she does not have to worry about anything and that he can use her email address and phone to manage all her appointments and her finances for her. He does all her shopping for her online with her bank card and Apple Pay.

Early in the relationship Robin's partner sold their van that Robin relied on for accessible transport because he said her needs were expensive, so she

doesn't get to leave the house much. When Robin asks for a taxi or lift into town to see her sister, her partner calls her ungrateful and reminds her that none of her family are patient enough to deal with her like he is. They end up spending most days together and Robin will encourage him to purchase something special for himself the next time he goes shopping as a 'thank you'.

## Interstate and international approaches

In considering how to implement a new coercive control offence in South Australia it is helpful to look to the approaches taken in other Australian jurisdictions as well as overseas.

### Tasmania

Tasmania is the only Australian state to currently have legislated offences relating specifically to coercive control. In 2004, the Tasmanian Government passed the *Family Violence Act 2004* (Tas) introducing two new criminal offences – economic abuse (section 8) and emotional abuse (section 9). The Act was implemented alongside the Safe at Home Policy – a whole of government approach to coordinating criminal justice responses to DFV, with victim/survivor safety as the overarching goal.<sup>viii</sup>

Tasmanian coercive control offences have not been prosecuted often. In the 12 years after commencement to the end of 2017, 73 charges had been finalised with 40 convictions. Some explanations for the low number of prosecutions include resistance from the legal profession, difficulties in obtaining evidence (because it is often undocumented and occurs within a private setting with no independent witnesses), lack of community awareness and deficiencies in training and resources provided to police.<sup>ix</sup> These factors will be considered in the development of an implementation plan for South Australia.

### New South Wales

The New South Wales Government is currently considering the recommendations in the June 2021 report of the NSW Parliament Joint Select Committee on Coercive Control inquiry. The Committee recommended the criminalisation of coercive control and made a number of recommendations regarding the implementation of an offence.

Of note, the Committee recommended a considerable program of education, training and consultation with police, stakeholders and the frontline sector before the commencement of a criminal offence. The Committee also recommended awareness campaigns about coercive control as a priority, and consideration of improving resources for victim/survivor housing and legal services, and behaviour change programs for perpetrators.<sup>x</sup>

## England and Wales

The England and Wales *Serious Crimes Act 2015* introduced a new offence of ‘controlling or coercive behaviour in an intimate or family relationship’. The legislation refers to coercive and controlling behaviour that is repeated or continuous, moving away from incident focused behaviour to a ‘course of conduct’.<sup>xi</sup>

Training entitled Domestic Abuse Matters was delivered to 14 police forces in England and Wales in response to the criminalisation of coercive control. An evaluation of Domestic Abuse Matters conducted in 2020 found that targeted, in-person training, when supported through peer support networks and ongoing professional development, can assist officers to better understand, recognise and respond to signs of coercive control. Notably, the study found attendance at the coercive control training was associated with a 41% increase in arrests for coercive control, with this effect remaining for up to eight months after training was completed.<sup>xii</sup>

## Republic of Ireland

A coercive control offence commenced in the Republic of Ireland in January 2019. A person commits the offence if they knowingly and persistently engage in behaviour that is controlling or coercive and which a reasonable person would be likely to consider to have a serious effect on a relevant person.<sup>xiii</sup>

Of relevance to South Australia’s implementation approach, the first conviction for the offence occurred in February 2020, more than one year after the offence commenced,<sup>xiv</sup> with lack of police training cited as one possible explanation for the delay. At the time of commencement, the Association of Garda Sergeants and Inspectors (AGSI) in the Republic of Ireland noted that its members had received no training in how best to enforce the new laws. AGSI called on the Garda Commissioner to prioritise training as a matter of urgency, stating “appropriate training delivered in advance of legislation being implemented will ensure the public receive the best possible policing service.”<sup>xv</sup>

## Scotland

The Scottish *Domestic Abuse Act 2018* commenced in 2019. The Act criminalises a course of abusive behaviour by a perpetrator against their current or former partner. The offence is treated as aggravated if the behaviour is directed at a child or they make use of a child as part of the course of abusive behaviour.<sup>xvi</sup>

The Scottish experience is instructive for South Australia. In addition to protection under the law, a broader systemic response was implemented, including increased investment in police training, a community awareness program and training for other professionals involved in the system such as prosecutors, lawyers and judges.



The intensive police training conducted in the lead up to the commencement of the legislation included how to identify coercive and controlling behaviours, understanding and awareness of the dynamics of DFV and perpetrator tactics used to manipulate victims/survivors and first responders. The training was delivered as an interactive online learning package, with additional training for the police leadership and attitudinal change champions.<sup>xvii</sup>

In the first year of operation, 246 people were prosecuted and 206 (84%) were convicted of the offence.<sup>xviii</sup> This is a sharp contrast to the Republic of Ireland which had no convictions in the first year.

## **Coercive control implementation considerations**

The following four areas have been identified to support a coercive control criminal offence, if it were to be introduced:

1. Awareness raising and engagement
2. Education and training
3. Supports and services for victims/survivors
4. Appropriate responses to and for perpetrators

The experience of coercive and controlling behaviours can be vastly different for DFV victims/survivors from CALD, Aboriginal and LGBTIQ+ communities, victims/survivors in remote and regional areas, elderly victims/survivor, and those living with disability. There can be a fear of discrimination and of not being believed, previous negative experiences in accessing services or reporting to police, cultural barriers, and isolation from appropriate supports. For this reason, implementation should also include a focus on inclusivity and the special needs of diverse and vulnerable groups.

The feedback received also stressed the importance of involving victims/survivors of DFV in any implementation process. To achieve this, victims/survivors of DFV will be separately engaged to provide a voice of lived experience.

## **Awareness raising and engagement**

Coercive control is a complex concept, challenging many existing beliefs and attitudes about DFV, such as the view that it consists only of physical violence. Overwhelmingly, feedback received indicated low awareness of coercive control in the South Australian community, and the need for awareness campaigns to increase understanding and encourage victims/survivors to come forward.

## Current initiatives

In South Australia, a number of campaigns have successfully raised community awareness of DFV. Using Snapchat, Instagram and TikTok, the Break the Cycle Campaign raised awareness of the different forms of abuse and told people how to get support in the first wave of COVID-19.

The Break the Cycle website was launched in June 2020 as a one-stop-shop for all DFV information in South Australia. It provides information and resources for victims/survivors and perpetrators, including topics on coercive controlling behaviours such as emotional, verbal, psychological and financial abuse. Support materials available on the website have also been translated into 25 languages.

A second Break the Cycle campaign ran between July and September 2021, on television, radio, digital and social media platforms. For the first time, QR codes were included on print advertising, allowing quick and direct access to support networks if needed.

The *See it for what it is, Stop Sexual Violence* campaign was also launched at the end of 2020. The campaign was notable for its use of the dating app Tinder to send out the message that all forms of violence are unacceptable and there is help available.

In addition to media campaigns, the *Keeping Safe: Child Protection Curriculum* child safety program is provided to children and young people from age 3 to year 12. The program teaches children to recognise abuse and understand ways of keeping themselves safe. The curriculum includes content relevant to coercive control such as:

- healthy and unhealthy relationships and the representation of relationships within popular media
- the social construction of gender, gender stereotypes and expectations
- the types of power and the way power is used in different contexts.

## Options to target coercive control

The Legal Services Commission has been allocated additional funding of up to \$507,500 over two years to support coercive control initiatives, including \$50,000 to develop a community awareness campaign in 2022. The campaign will provide the following information:

- i. what are coercive control behaviours and how to identify them
- ii. where to get help, including crisis support services, social support services (including legal services)
- iii. any other information that may be relevant for the purpose of raising awareness.

Recognising the diversity of languages and cultures across South Australia, information about coercive control and the new offences will be provided on multiple platforms, including social media, and in a range of formats and languages. Consideration also needs to be given to the provision of information to people living with disability.

This discussion paper seeks feedback on how we can ensure all communities in South Australia receive this important information.

### Questions:

1. What are the key messages that should be communicated about coercive control?
2. What are the best mediums to communicate information about coercive control to your community?

### Case Study - Zara<sup>xix</sup>

Zara has been with Adam for over two years. At the beginning of their relationship they were very social, and often spent time with friends, family and colleagues. However, over time, things started to change. Adam started to monitor her whereabouts. He would get upset if she didn't constantly check in with him ... He didn't like her going out with friends because he didn't want her to talk to other men.

He would make comments about her appearance and tell her that she should be grateful to have him because no one else would want her. ... He became controlling over what she wore and wouldn't let her wear certain clothes because he didn't want other men looking at her.

Over time, Zara stopped seeing her friends and rarely saw her family. ... She stopped speaking to her colleagues at work and stopped going on work trips or nights out. She was afraid Adam would be angry if he found out she was talking to them because he said he didn't like them and said she shouldn't spend time with people like that. She felt anxious, depressed and constantly on edge. She felt like she was walking on egg shells and worried about upsetting Adam. She didn't want to tell her friends or family because she worried they wouldn't believe her. She

thought that since he wasn't physically violent, then it must not be that bad.

### Education and training for first responders, the legal sector and service providers

A common theme in the feedback received was the importance of education and training about coercive control. Some respondents felt the South Australian legal response focused on physical violence and lacked an understanding of the nature of coercive control and the harms it can cause. Research papers on coercive control also note the need for education and training to be delivered beyond the legal sector (police officers, prosecutors and judicial officers), to emergency workers and workers in DFV services, health care, housing, education and child protection sectors.<sup>xx</sup>

### Current initiatives

DFV related training and education for the justice sector is currently conducted within SA Police and the Courts Administration Authority.

SA Police has a raft of training and practices designed to enhance the policing response to DFV. SA Police policies provide guidance for frontline officers about the management of a DFV incident, and the gathering of available physical evidence. This includes preserving the scene of a crime, undertaking investigations, identifying all relevant witnesses, and instigating prosecutions and intervention orders.

The Magistrates Court holds Judicial Education Days four times per year, and an annual *All Courts Judicial Development Day*. In July 2020, award winning author and investigative journalist Jess Hill, author of *'See What You Made Me Do'*, gave a presentation to all Magistrates entitled *'Power, Control and Domestic Abuse'*, focused on understanding coercive control, its characteristics and impacts. The session discussed approaches and strategies to appropriately obtain evidence from a person seeking, or protected by, an Intervention Order who has been subjected to coercive control and to assist in identifying within a courtroom setting whether an applicant for an Intervention Order may have been a victim/survivor of coercive control.

Beyond the justice sector, the Department of Human Services has funded *No to Violence* to deliver workforce development sessions four times per year to frontline case workers providing support outside the DFV sector, for example, health workers or drug and alcohol workers. The sessions will help caseworkers to identify DFV perpetrators in the course of their work and respond appropriately.

### Options to target coercive control

Additional funding of up to \$507,500 over two years has been allocated to the Legal Services Commission for coercive control initiatives, including funding to engage with and educate health and welfare professionals on signs of coercive control in patients and clients, with referral to relevant legal assistance providers where appropriate. This engagement will also extend to other professions, such as the South Australian Hair and Beauty Association which is the professional body for hairdressers and beauticians.

In relation to training of the justice sector, a new coercive control offence would require changes in approach to both the investigation and prosecution, for example, identifying and gathering evidence for a course of conduct rather than a single incident.<sup>xxi</sup> The intensive police training process conducted in Scotland in the lead up to the commencement of their coercive control legislation is often cited as best practice.

There is also a need for extensive training on the nature of coercive and controlling behaviour and the different ways victims/survivors may respond to trauma. Research and inquiry submissions have reported concerns about possible unintended consequences of criminalising coercive control. A key concern identified is the potential for manipulation by or misidentification of the perpetrator when police first arrive at a crisis situation, leading to the victim/survivor being identified as the primary aggressor.<sup>xxii</sup> Training should include a focus on how to avoid any potential unintended consequences of the new offences.<sup>xxiii</sup>

We heard that training should be developed by experts in DFV including people with lived experience and include information about the precursors of DFV, gender-based violence, the experiences of DFV across different groups within the community, such as the LGBTIQ+ community, people with disabilities, CALD communities, the elderly, and Aboriginal peoples, how victims/survivors may respond to trauma and how perpetrators may respond to intervention. Regular refresher training should also be provided to ensure the lessons are reinforced over time and new information/approaches are communicated.

As a first step, this discussion paper seeks feedback on the current DFV education and training available and whether there are any gaps in relation to coercive control. This information will help us to identify additional education and training modules that might be needed to improve understanding of and responses to coercive control and DFV in general. It will also ensure we build on the extensive education and training already provided and avoid duplication.

### Questions:

3. How is coercive control understood by you and more broadly within your community?
4. If it were made an offence, what might this mean to you and the people around you?
5. If you were concerned about the use of coercive control as an individual, or on behalf of someone else, what systems and services would you approach for support or advice?
6. What education and training is needed to improve the justice sector's understanding of coercive control and detect, investigate and prosecute coercive control appropriately?
7. What education and training is needed for organisations that work with victims/survivors and perpetrators of coercive control e.g. in health, housing, education, etc.?

### Support services for victims/survivors

The feedback received suggested the need for increased support services to DFV victims/survivors, including emotional support services and practical assistance such as accommodation services.

### Current services for DFV victims/survivors

Since 2019 the Commissioner for Victims' Rights has been the central point of contact for victims/survivors, to coordinate their access to services and to support them to navigate the criminal justice system. Additionally, a new Victims Of Crime SA website was launched in October 2020 which brings together information for victims/survivors, including what to expect in the criminal justice process and information about support services. This information is also published in the *'Information for Victims of Crime'* booklet which is disseminated by SA Police upon first contact with victims/survivors.



A range of services and supports are available to victims/survivors of DFV. Supports include crisis support, legal assistance, and help to navigate through the criminal justice system – from initial report and investigation to court support, victim impact statements and counselling, to parole and victim/survivors safety planning.

Information about specific DFV and sexual assault support services is available from [www.sa.gov.au](http://www.sa.gov.au).

**Recent initiatives include:**

Opening of the seventh women's safety hub located in Whyalla, adding to existing regional hubs reaching from Mount Gambier to Berri and Port Augusta. Hubs are tailored to each region, with all providing information and referrals for DFV support, housing, police and legal matters, family intervention, financial counselling, mental health medical services or drug and alcohol services. Most also offer private drop-in spaces with phone or computer access – a vital service for women who are not able to freely seek information or access services in their own home.

31 new crisis accommodation beds for South Australians impacted by DFV across Adelaide and the regions, including 17 in regional areas in Limestone Coast, Murray Mallee and Eyre and Western.

The *Supporting Parents' and Children's Emotions Program*, which provides early intervention support to young parents aged between 12 to 25 years, who are experiencing or perpetuating DFV. The program is run through the Women's and Children's Health Network, as a specialised add-on to its *Young Parents Program*.

Additional funding to the *Domestic Violence Disclosure Scheme* (DVDS) to mid-2024. The DVDS is a free and confidential online application to help people at risk find out if their partner has a history of violent offending or other relevant information, such as previous intervention orders. Persons feeling at risk are also connected with specialist DFV support, whether or not there is information for police to disclose, providing help to make an informed safety plan. Further expanding the scheme from a 'Right to ask' to a 'Right to know' model is also being explored.

Funding in the amount of \$603,000 has been provided to the Department for Correctional Services (DCS) to keep high risk victims/survivors of DFV informed of changes to the circumstances of their perpetrator who is in the custody or under the supervision of DCS.

**Options to target coercive control**

Increased awareness of coercive and controlling behaviours will likely have an immediate impact on DFV and legal service providers.

Women's Safety Service (SA) (WSSSA) is funded to operate the 24/7 Domestic Violence Crisis line, which provides information and advice and support to develop a safety plan. Additional funding of \$600,000 has been provided to WSSSA to enhance its existing service to include a quick response coercive control assessment, and to provide information and referral to other support services.

The additional funding to WSSSA includes \$3,000 to develop a new (or amend the current) risk assessment tool to assess the coercive control risk factors of persons who contact the Crisis Line. The new tool will link with the existing common DFV Risk Assessment form, which has been used by government and non-government agencies since 2014 to determine the current level of risk to a victim/survivor and any children, and to guide decision making on the type and urgency of response required. The use of a common, agreed risk assessment means that all agencies have a uniform understanding of risk factors and risk levels, to better inform responses and support.

One of the legal remedies to support victims/survivors to mitigate or address coercive control behaviours is an Intervention Order. Victims/survivors can apply to the court to prohibit the perpetrators from engaging in coercive or controlling behaviours against them. All community legal assistance providers, such as the Aboriginal Legal Rights Movement and Women's Legal Service SA, can support an individual seeking an intervention order.

The Women's Domestic Violence Court Assistance Service (WDVCAS) is a statewide free legal assistance service

run by the Legal Services Commission, dedicated to supporting women to navigate the Magistrates Court process of applying for, varying or revoking an Intervention Order. Additional funding of up to \$507,500 over two years has been allocated to the Legal Services Commission for coercive control initiatives, including funding to increase the capacity of WDVCAS to assist victims/survivors experiencing coercive control.

Properly addressing coercive control requires services to be easily accessible and visible via strong referral pathways and no red tape or duplication. This discussion paper seeks feedback on current services, including DFV services, available and their ability to respond to victims/survivors of coercive control. This information will help us to map existing services, to determine gaps, duplications and opportunities for improvements.

#### Questions:

8. What types of coercive control services should be prioritised?
9. Are there any gaps in the services currently available to victims/survivors of coercive control?
10. Are there any current specialist and mainstream service providers that could improve and/or tailor their current services for victims/survivors of coercive control?

#### Case Study - Sanaya<sup>xxiv</sup>

Sanaya married when she was 18 and came to Australia with her husband and young child. Sanaya's husband tells her

negative stories about other women and communities and insists Sanaya stay away from other mums who talk to her at school drop off and pick up. When Sanaya started her first job she was told to quit after only a few months. Her husband said she was failing as a mother and had abandoned their child. Now, when Sanaya goes out, her husband encourages her to send happy selfies of herself and their child to verify her location. Sanaya is aware that he uses her phone to track her location. When Sanaya arrives home, she feels interrogated about where she's been and who she's spoken with, so she prefers to only go out as a family to avoid confrontation.

### **Appropriate responses to and for coercive control perpetrators**

The feedback received noted the need for counselling and treatment services for perpetrators of coercive control. Respondents suggested that some perpetrators may have a lack of understanding about the seriousness and impact of their behaviour.

### **Current services for DFV perpetrators**

There are a range of services available to the Court and in the correctional system which provide therapeutic intervention to perpetrators of DFV. There is also a dedicated phone line where perpetrators, frontline workers and friends, family and community members can call when they are concerned with the perpetrator's use of violence.

Under section 13 of the *Intervention Orders (Prevention of Abuse) Act 2009*, the Magistrates Court can mandate assessment for and participation in an Abuse Prevention Program (APP) for alleged DFV offenders either as a condition of bail or an Intervention Order. During 2020-21 there were 706 referrals to the APP. Approximately \$668,400 per year is provided by the Courts Administration Authority to run:

- face-to-face group counselling.
- weekly individual counselling for men who are not considered suitable for group participation. This includes men with cognitive impairment or low levels of English language proficiency.
- a culturally safe program for Aboriginal men.

The Department for Correctional Services operates five programs targeting perpetrators of DFV, at a cost of \$9 million per year. These are:

- *The Domestic and Family Violence Intervention Program* and the culturally responsive *Aboriginal Men's Family Violence Program*.
- A suite of Violence Prevention programs (VPP) targeting perpetrators of violent offending, such as gang violence, homicide, kidnapping and armed robbery. Each of these programs includes a focus on identifying and challenging attitudes supportive of DFV and the dynamics of intimate partner violence. The VPP for Aboriginal men includes a co-facilitation model where Aboriginal staff deliver the program alongside clinical staff from

the DCS Rehabilitation Programs Branch.

- *The Cross Borders Indigenous Family Violence Program (CBIFVP)* operates as a tri-state partnership between South Australia, Western Australia and the Northern Territory, with funding contributed from the Australian Government. The CBIFVP receives referrals from police, courts and corrections for men who live in remote Anangu Pitjantjatjara Yankunytjatjara or Ngaanyatjarra Pitjantjatjara Yankunytjatjara communities. The program aims to reduce the incidence of DFV through culturally responsive approaches, including delivering in local language, having a cultural broker present, and challenging attitudes and behaviours in culturally appropriate ways.

## Further considerations

Controlling behaviour is recognised as a foundational aspect of DFV and it is likely that it is already addressed, at least to some extent, in current perpetrator programs. It is noted, however, that the primary trigger for entry to these programs is physical violence or threat. Counselling and treatment programs aimed specifically at coercive control perpetrators who do not use physical violence may be a useful addition to the current suite of perpetrator responses.

This discussion paper seeks feedback on existing perpetrator services and programs. This will enable us to determine opportunities for improvements in the context of coercive control.

### Questions:

11. What types of perpetrator services should be prioritised?
12. Are there any gaps in the services currently available to perpetrators of coercive control?
13. Are there any current specialist and mainstream service providers that could improve and/or tailor their current services for perpetrators of coercive control?

### General questions:

14. Is there anything else that should be considered as part of implementing a criminal offence relating to coercive control?

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<sup>i</sup> ABS Recorded Crime Victims 2020

<sup>ii</sup> In South Australia, Aboriginal is used to describe Aboriginal and Torres Strait Islander peoples.

<sup>iii</sup> Coercive control in domestic relationships Parliament of New South Wales Joint Select Committee on Coercive Control Report 1/57 June 2021 p 15. Report - coercive control in domestic relationships.pdf (nsw.gov.au)

<sup>iv</sup> NSW State Coroners Court 2020

<sup>v</sup> Boxall H & Morgan A 2021. *Experiences of coercive control among Australian women*. Statistical Bulletin no. 30. Canberra: Australian Institute of Criminology. <https://doi.org/10.52922/sb78108>

<sup>vi</sup> ANROWS , Attachment 1, Policy Brief: Defining and responding to coercive control, p2 in Coercive control in domestic relationships, Submission 96 to Parliament of New South Wales Joint Select Committee on Coercive Control Report 1/57 June 2021 p 3. Report - coercive control in domestic relationships.pdf (nsw.gov.au)

<sup>vii</sup> Case study provided by Disability Advocacy and Complaints Service of South Australia Inc. The case study has been de-identified and formatted for the purpose of this discussion paper and is representative of common lived experiences

<sup>viii</sup> Australia's National Research Organisation for Women's Safety. (2021). Defining and responding to coercive control: Policy brief (ANROWS Insights,01/2021). Sydney: ANROWS. p 4

<sup>ix</sup> Qld Women's Safety and Justice Taskforce: 1 Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p 36

<sup>x</sup> Coercive control in domestic relationships Parliament of New South Wales Joint Select Committee on Coercive Control Report 1/57 June 2021. pp xiv to xvi Report - coercive control in domestic relationships.pdf (nsw.gov.au)

<sup>xi</sup> Australia's National Research Organisation for Women's Safety. (2021). Defining and responding to coercive control: Policy brief (ANROWS Insights,01/2021). Sydney: ANROWS. p 5

<sup>xii</sup> Qld Women's Safety and Justice Taskforce: 1 Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p39

<sup>xiii</sup> Qld Women's Safety and Justice Taskforce: 1 Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p37



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<sup>xiv</sup> Australia's National Research Organisation for Women's Safety. (2021). Defining and responding to coercive control: Policy brief (ANROWS Insights, 01/2021). Sydney: ANROWS. p 6

<sup>xv</sup> <https://www.irishtimes.com/news/crime-and-law/call-for-more-garda-training-to-enforce-new-domestic-violence-laws-1.3752299> in ibid 6

<sup>xvi</sup> Australia's National Research Organisation for Women's Safety. (2021). Defining and responding to coercive control: Policy brief (ANROWS Insights, 01/2021). Sydney: ANROWS. p 6

<sup>xvii</sup> Qld Women's Safety and Justice Taskforce: 1 Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p 39

<sup>xviii</sup> Scottish Government 'Criminal Proceedings in Scotland, 2019-20', A National Statistics Publication for Scotland, ISBN:9781800049628, 18 May 2021, 4 in ibid Qld Women's Safety and Justice Taskforce: 1 Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p 36

<sup>xix</sup> Think Business, Think Equality, Domestic Abuse Case study: Coercive control ([thinkbusinessthinkequality.org.uk](http://thinkbusinessthinkequality.org.uk))

<sup>xx</sup> Coercive control in domestic relationships Parliament of New South Wales Joint Select Committee on Coercive Control Report 1/57 June 2021. pp xiv to xvi Report - coercive control in domestic relationships.pdf ([nsw.gov.au](http://nsw.gov.au))

<sup>xxi</sup> Qld Women's Safety and Justice Taskforce: 1 Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p 36

<sup>xxii</sup> Push to criminalise coercive control in relationships sparks concern for migrant and refugee women ([sbs.com.au](http://sbs.com.au))

<sup>xxiii</sup> Why we need a thorough consultation process on how to effectively address coercive controlling violence ([wlsnsw.org.au](http://wlsnsw.org.au))

<sup>xxiv</sup> Case study provided by Disability Advocacy and Complaints Service of South Australia Inc. The case study has been de-identified and formulated for the purpose of this discussion paper and is representative of common lived experiences

Advisors			
IB		AW	
ET		OL-S	
SB		AD	



MINUTES forming ENCLOSURE to

File:  
Document No:fA93708  
A605447

To: Minister for Planning and Local Government

Through: Chief Executive

**Public release of the coercive control discussion paper****Issue**

To advise you of the upcoming public release of an AGD-led discussion paper to inform implementation considerations should coercive control be criminalised in South Australia.

**Timing**

Urgent. The paper will be released on 2 February 2022.

**Discussion**

As you are aware, AGD will release a discussion paper (**Attachment 1**) to inform its consideration of the potential implementation of a future criminal offence of coercive control.

AGD has developed the discussion paper with input from the Departments for Correctional Services and of Human Services, South Australia Police and the Courts Administration Authority. Input has also been incorporated from the Coercive Control Implementation Taskforce which has broad representation of domestic and family violence organisations and other peak community organisations.

The paper will be released on 2 February 2022 via a mail out, and online via AGD's social media and webpage. The mailing list is provided for your reference at **Attachment 2**. The Department will also release a media release publicising the discussion paper (**Attachment 3**). Feedback on the discussion paper can be made to AGD until 1 April 2022.

**Recommendations**

1. Note this Minute.
2. Note the coercive control discussion paper will be publicly released on 2 February 2022.

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Josh Teague MP

/ /

Executive Director, Policy and Community

1 February 2022

**Attachments**

1. Coercive control discussion paper
2. Distribution mailing list
3. AGD media release

Contact: \_\_\_\_\_ Manager Justice Policy  
6(1) Personal affairs

**Discussion Paper:**  
**Implementation considerations**  
**should coercive control be**  
**criminalised in South Australia**

Released by AGD, under the FOI Act 1991 (SA)



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## Foreword

Domestic and family violence (DFV) continues to be a blight on our community. In South Australia during 2020 there were 9,451 recorded victims/survivors of DFV related assault and sexual assault.<sup>i</sup>

Unfortunately, many more DFV behaviours go unreported to police or DFV support services. This includes coercive and controlling behaviours, such as isolating a person from their friends and family and denying financial autonomy. While these behaviours have long been recognised as an integral part of DFV, criminal justice responses have traditionally focused on physical violence.

There is growing momentum across Australia and internationally to consider new offences to criminalise coercive and controlling behaviours that are not covered within existing criminal offences. In jurisdictions where such offences exist, feedback has stressed the importance of the implementation process to ensure the offences operate effectively within the community. Key implementation measures include community awareness raising, education and training for the legal and DFV service sectors, and services for victims/survivors and perpetrators.

Currently, coercive control is not a specific criminal offence in South Australia. However, given the recent focus on this issue, the Attorney-General's Department is currently considering what implementation processes would be needed should coercive control be criminalised in South Australia.

I encourage you to consider the questions in this discussion paper and have your say to help us improve the safety and wellbeing of South Australian DFV victims/survivors and their children.

Caroline Mealor  
Chief Executive,  
Attorney-General's Department

## Introduction

Consultation on a proposed South Australian offence of coercive control was conducted during September and October 2021. There were 173 respondents to a public survey, with more detailed submissions received from 31 individuals and organisations.

The feedback noted the importance of the implementation process. Suggestions included training for enforcement agencies to identify, charge and prosecute coercive control, a public awareness campaign, wrap-around support services for victims/survivors and counselling and treatment services for perpetrators. Respondents also advocated a focus on regional and remote victims/survivors, Aboriginal<sup>ii</sup> people, and the migrant community.

This discussion paper seeks feedback on proposed implementation measures. We seek your views on this approach and any other feedback you may have on how to support implementation of a coercive control offence, should it be introduced.



## How to make a submission

Submissions in response to this discussion paper can be made until 1 April 2022. Individuals and organisations can make a submission (confidentially if desired) by email to [agdpolicyandanalytics@sa.gov.au](mailto:agdpolicyandanalytics@sa.gov.au).

This discussion paper poses a number of questions. You may respond to all questions, or only those that are of interest to you. You may also raise any additional relevant matters.

## What is coercive control?

Coercive control has not been officially defined in South Australia. It is understood to be an insidious form of DFV that involves tactics of emotional and mental abuse which undermine the victim's autonomy and sense of identity. Coercive and controlling behaviour may include isolating a person from their friends and family, controlling finances, controlling what a person can or can't say, controlling what a person can wear, when they can sleep, what they can eat and when they can leave the house. The NSW Parliament Joint Select Committee on Coercive Control inquiry heard that "victims/survivors often describe it as more harmful and long-lasting than physical abuse. Respondents spoke of the 'isolation, subordination, humiliation and loss of liberty occasioned by coercive control' and noted that it has been linked to psychiatric outcomes including suicidality, depression and post-traumatic stress disorder".<sup>iii</sup>

Disturbingly, coercive control is also a common factor in intimate partner homicides, even though this type of behaviour does not always involve physical violence. Analysis undertaken by the NSW Domestic Violence Death Review Team identified that, among 112 incidents of intimate partner homicide between June 2000 and July 2021, coercive control was a feature of the relationship in all but one case. A number of these cases did not have any evident history of physical abuse.<sup>iv</sup>

Despite the significant harm caused by coercive and controlling behaviours, victims/survivors are unlikely to seek help if they had not also experienced physical or sexual forms of abuse. They may be prevented from seeking help because the perpetrator isolates them from friends and family and restricts access to the phone and internet.<sup>v</sup> Some victims/survivors may not believe they are experiencing violence, or minimise their experience, because non-physical violence has traditionally been viewed to be less harmful or traumatic than physical or sexual violence.<sup>vi</sup>

### Case Study - Robin

Robin has physical disability that affects her mobility and hands. Her partner started caring for her many years ago when there weren't many service options around. He tells Robin she does not have to worry about anything and that he can use her email address and phone to manage all her appointments and her finances for her. He does all her shopping for her online with her bank card and Apple Pay.

Early in the relationship Robin's partner sold their van that Robin relied on for accessible transport because he said her needs were expensive, so she

doesn't get to leave the house much. When Robin asks for a taxi or lift into town to see her sister, her partner calls her ungrateful and reminds her that none of her family are patient enough to deal with her like he is. They end up spending most days together and Robin will encourage him to purchase something special for himself the next time he goes shopping as a 'thank you'.

## Interstate and international approaches

In considering how to implement a new coercive control offence in South Australia it is helpful to look to the approaches taken in other Australian jurisdictions as well as overseas.

### Tasmania

Tasmania is the only Australian state to currently have legislated offences relating specifically to coercive control. In 2004, the Tasmanian Government passed the *Family Violence Act 2004* (Tas) introducing two new criminal offences – economic abuse (section 8) and emotional abuse (section 9). The Act was implemented alongside the Safe at Home Policy – a whole of government approach to coordinating criminal justice responses to DFV, with victim/survivor safety as the overarching goal.<sup>vii</sup>

Tasmanian coercive control offences have not been prosecuted often. In the 12 years after commencement to the end of 2017, 73 charges had been finalised with 40 convictions. Some explanations for the low number of prosecutions include resistance from the legal profession, difficulties in obtaining evidence (because it is often undocumented and occurs within a private setting with no independent witnesses), lack of community awareness and deficiencies in training and resources provided to police.<sup>viii</sup> These factors will be considered in the development of an implementation plan for South Australia.

### New South Wales

The New South Wales Government is currently considering the recommendations in the June 2021 report of the NSW Parliament Joint Select Committee on Coercive Control inquiry. The Committee recommended the criminalisation of coercive control and made a number of recommendations regarding the implementation of an offence.

Of note, the Committee recommended a considerable program of education, training and consultation with police, stakeholders and the frontline sector before the commencement of a criminal offence. The Committee also recommended awareness campaigns about coercive control as a priority, and consideration of improving resources for victim/survivor housing and legal services, and behaviour change programs for perpetrators.<sup>ix</sup>

## England and Wales

The England and Wales *Serious Crimes Act 2015* introduced a new offence of ‘controlling or coercive behaviour in an intimate or family relationship’. The legislation refers to coercive and controlling behaviour that is repeated or continuous, moving away from incident focused behaviour to a ‘course of conduct’.<sup>x</sup>

Training entitled Domestic Abuse Matters was delivered to 14 police forces in England and Wales in response to the criminalisation of coercive control. An evaluation of Domestic Abuse Matters conducted in 2020 found that targeted, in-person training, when supported through peer support networks and ongoing professional development, can assist officers to better understand, recognise and respond to signs of coercive control. Notably, the study found attendance at the coercive control training was associated with a 41% increase in arrests for coercive control, with this effect remaining for up to eight months after training was completed.

## Republic of Ireland

A coercive control offence commenced in the Republic of Ireland in January 2019. A person commits the offence if they knowingly and persistently engage in behaviour that is controlling or coercive and which a reasonable person would be likely to consider to have a serious effect on a relevant person.<sup>xii</sup>

Of relevance to South Australia’s implementation approach, the first conviction for the offence occurred in February 2020, more than one year after the offence commenced,<sup>xiii</sup> with lack of police training cited as one possible explanation for the delay. At the time of commencement, the Association of Garda Sergeants and Inspectors (AGSI) in the Republic of Ireland noted that its members had received no training in how best to enforce the new laws. AGSI called on the Garda Commissioner to prioritise training as a matter of urgency, stating “appropriate training delivered in advance of legislation being implemented will ensure the public receive the best possible policing service.”<sup>xiv</sup>

## Scotland

The Scottish *Domestic Abuse Act 2018* commenced in 2019. The Act criminalises a course of abusive behaviour by a perpetrator against their current or former partner. The offence is treated as aggravated if the behaviour is directed at a child or they make use of a child as part of the course of abusive behaviour.<sup>xv</sup>

The Scottish experience is instructive for South Australia. In addition to protection under the law, a broader systemic response was implemented, including increased investment in police training, a community awareness program and training for other professionals involved in the system such as prosecutors, lawyers and judges.

The intensive police training conducted in the lead up to the commencement of the legislation included how to identify coercive and controlling behaviours, understanding and awareness of the dynamics of DFV and perpetrator tactics used to manipulate victims/survivors and first responders. The training was delivered as an interactive online learning package, with additional training for the police leadership and attitudinal change champions.<sup>xvi</sup>

In the first year of operation, 246 people were prosecuted and 206 (84%) were convicted of the offence.<sup>xvii</sup> This is a sharp contrast to the Republic of Ireland which had no convictions in the first year.

## Coercive control implementation considerations

The following four areas have been identified to support a coercive control criminal offence, if it were to be introduced:

1. Awareness raising and engagement
2. Education and training
3. Supports and services for victims/survivors
4. Appropriate responses to and for perpetrators

The experience of coercive and controlling behaviours can be vastly different for DFV victims/survivors from CALD, Aboriginal and LGBTIQ+ communities, victims/survivors in remote and regional areas, elderly victims/survivor, and those living with disability. There can be a fear of discrimination and of not being believed, previous negative experiences in accessing services or reporting to police, cultural barriers, and isolation from appropriate supports. For this reason, implementation should also include a focus on inclusivity and the special needs of diverse and vulnerable groups.

The feedback received also stressed the importance of involving victims/survivors of DFV in any implementation process. To achieve this, victims/survivors of DFV will be separately engaged to provide a voice of lived experience.

## Awareness raising and engagement

Coercive control is a complex concept, challenging many existing beliefs and attitudes about DFV, such as the view that it consists only of physical violence. Overwhelmingly, feedback received indicated low awareness of coercive control in the South Australian community, and the need for awareness campaigns to increase understanding and encourage victims/survivors to come forward.

## Current initiatives

In South Australia, a number of campaigns have successfully raised community awareness of DFV. Using Snapchat, Instagram and TikTok, the [Break the Cycle Campaign](#) raised awareness of the different forms of abuse and told people how to get support in the first wave of COVID-19.

The [Break the Cycle](#) website was launched in June 2020 as a one-stop-shop for all DFV information in South Australia. It provides information and resources for victims/survivors and perpetrators, including topics on coercive controlling behaviours such as emotional, verbal, psychological and financial abuse. Support materials available on the website have also been translated into 25 languages.<sup>xviii</sup>

A second Break the Cycle campaign ran between July and September 2021, on television, radio, digital and social media platforms. For the first time, QR codes were included on print advertising, allowing quick and direct access to support networks if needed.<sup>xix</sup>

The *See it for what it is: Stop Sexual Violence* campaign was also launched at the end of 2020. The campaign was notable for its use of the dating app Tinder to send out the message that all forms of violence are unacceptable and there is help available.<sup>xx</sup>

In addition to media campaigns, the *Keeping Safe: Child Protection Curriculum* child safety program is provided to children and young people from age 3 to year 12. The program teaches children to recognise abuse and understand ways of keeping themselves safe. The curriculum includes content relevant to coercive control such as:

- healthy and unhealthy relationships and the representation of relationships within popular media
- the social construction of gender, gender stereotypes and expectations
- the types of power and the way power is used in different contexts.

## Options to target coercive control

The Legal Services Commission has been provided with additional funding of up to \$507,500 over two years to support coercive control initiatives, including \$50,000 to develop a community awareness campaign in 2022. The campaign will provide the following information:

- i. what are coercive control behaviours and how to identify them
- ii. where to get help, including crisis support services, social support services (including legal services)
- iii. any other information that may be relevant for the purpose of raising awareness.

Recognising the diversity of languages and cultures across South Australia, information about coercive control and the new offences will be provided on multiple platforms, including social media, and in a range of formats and languages. Consideration also needs to be given to the provision of information to people living with disability.

This discussion paper seeks feedback on how we can ensure all communities in South Australia receive this important information.



## Questions:

1. What are the key messages that should be communicated about coercive control?
2. What are the best mediums to communicate information about coercive control to your community?

## Case Study - Zara<sup>xxi</sup>

Zara has been with Adam for over two years. At the beginning of their relationship they were very social, and often spent time with friends, family and colleagues. However, over time, things started to change. Adam started to monitor her whereabouts. He would get upset if she didn't constantly check in with him ... He didn't like her going out with friends because he didn't want her to talk to other men.

He would make comments about her appearance and tell her that she should be grateful to have him because no one else would want her. ... He became controlling over what she wore and wouldn't let her wear certain clothes because he didn't want other men looking at her.

Over time, Zara stopped seeing her friends and rarely saw her family. ... She stopped speaking to her colleagues at work and stopped going on work trips or nights out. She was afraid Adam would be angry if he found out she was talking to them because he said he didn't like them and said she shouldn't spend time with people like that. She felt anxious, depressed and constantly on edge. She felt like she was walking on egg shells and worried about upsetting Adam. She didn't want to tell her friends or family because she worried they wouldn't believe her. She

thought that since he wasn't physically violent, then it must not be that bad

## Education and training for first responders, the legal sector and service providers

A common theme in the feedback received was the importance of education and training about coercive control. Some respondents felt the South Australian legal response focused on physical violence and lacked an understanding of the nature of coercive control and the harms it can cause. Research papers on coercive control also note the need for education and training to be delivered beyond the legal sector (police officers, prosecutors and judicial officers), to emergency workers and workers in DFV services, health care, housing, education and child protection sectors.<sup>xxii</sup>

## Current initiatives

DFV related training and education for the justice sector is currently conducted within SA Police and the Courts Administration Authority.

SA Police has a raft of training and practices designed to enhance the policing response to DFV. SA Police policies provide guidance for frontline officers about the management of a DFV incident, and the gathering of available physical evidence. This includes preserving the scene of a crime, undertaking investigations, identifying all relevant witnesses, and instigating prosecutions and intervention orders.

The Magistrates Court holds Judicial Education Days four times per year, and an annual *All Courts Judicial Development Day*. In July 2020, award winning author and investigative journalist Jess Hill, author of *'See What You Made Me Do'*, gave a presentation to all Magistrates entitled *'Power, Control and Domestic Abuse'*, focused on understanding coercive control, its characteristics and impacts. The session discussed approaches and strategies to appropriately obtain evidence from a person seeking, or protected by, an Intervention Order who has been subjected to coercive control and to assist in identifying within a courtroom setting whether an applicant for an Intervention Order may have been a victim/survivor of coercive control.

Beyond the justice sector, the Department of Human Services has funded [No to Violence](#) to deliver workforce development sessions four times per year to frontline case workers providing support outside the DFV sector, for example, health workers or drug and alcohol workers. The sessions will help caseworkers to identify DFV perpetrators in the course of their work and respond appropriately.

## Options to target coercive control

Additional funding of up to \$507,500 over two years has been allocated to the Legal Services Commission for coercive control initiatives, including funding to engage with and educate health and welfare professionals on signs of coercive control in patients and clients, with referral to relevant legal assistance providers where appropriate. This engagement will also extend to other professions, such as the South Australian Hair and Beauty Association which is the professional body for hairdressers and beauticians.

In relation to training of the justice sector, a new coercive control offence would require changes in approach to both the investigation and prosecution, for example, identifying and gathering evidence for a course of conduct rather than a single incident.<sup>xxiii</sup> The intensive police training process conducted in Scotland in the lead up to the commencement of their coercive control legislation is often cited as best practice.

There is also a need for extensive training on the nature of coercive and controlling behaviour and the different ways victims/survivors may respond to trauma. Research and inquiry submissions have reported concerns about possible unintended consequences of criminalising coercive control. A key concern identified is the potential for manipulation by or misidentification of the perpetrator when police first arrive at a crisis situation, leading to the victim/survivor being identified as the primary aggressor.<sup>xxiv</sup> Training should include a focus on how to avoid any potential unintended consequences of the new offences.<sup>xxv</sup>

We heard that training should be developed by experts in DFV including people with lived experience and include information about the precursors of DFV, gender-based violence, the experiences of DFV across different groups within the community, such as the LGBTIQ+ community, people with disabilities, CALD communities, the elderly, and Aboriginal peoples, how victims/survivors may respond to trauma and how perpetrators may respond to intervention. Regular refresher training should also be provided to ensure the lessons are reinforced over time and new information/approaches are communicated.

As a first step, this discussion paper seeks feedback on the current DFV education and training available and whether there any gaps in relation to coercive control. This information will help us to identify additional education and training modules that might be needed to improve understanding of and responses to coercive control and DFV in general. It will also ensure we build on the extensive education and training already provided and avoid duplication.

### Questions:

3. How is coercive control understood by you and more broadly within your community?
4. If it were made an offence, what might this mean to you and the people around you?
5. If you were concerned about the use of coercive control as an individual, or on behalf of someone else, what systems and services would you approach for support or advice?
6. What education and training is needed to improve the justice sector's understanding of coercive control and detect, investigate and prosecute coercive control appropriately?
7. What education and training is needed for organisations that work with victims/survivors and perpetrators of coercive control e.g. in health, housing, education, etc.?

## Support services for victims/survivors

The feedback received suggested the need for increased support services to DFV victims/survivors, including emotional support services and practical assistance such as accommodation services.

### Current services for DFV victims/survivors

Since 2019 the Commissioner for Victims' Rights has been the central point of contact for victims/survivors, to coordinate their access to services and to support them to navigate the criminal justice system. Additionally, a new [Victims Of Crime SA website](#) was launched in October 2020 which brings together information for victims/survivors, including what to expect in the criminal justice process and information about support services. This information is also published in the '*Information for Victims of Crime*' booklet which is disseminated by SA Police upon first contact with victims/survivors.

A range of services and supports are available to victims/survivors of DFV. Supports include crisis support, legal assistance, and help to navigate through the criminal justice system – from initial report and investigation to court support, victim impact statements and counselling, to parole and victim/survivors safety planning.

Information about specific DFV and sexual assault support services is available from [www.sa.gov.au](http://www.sa.gov.au).

### **Recent initiatives include:**

Opening of the seventh women's safety hub located in Whyalla, adding to existing regional hubs reaching from Mount Gambier to Berri and Port Augusta. Hubs are tailored to each region, with all providing information and referrals for DFV support, housing, police and legal matters, family intervention, financial counselling, mental health medical services or drug and alcohol services. Most also offer private drop-in spaces with phone or computer access – a vital service for women who are not able to freely seek information or access services in their own home.<sup>xxvi</sup>

31 new crisis accommodation beds for South Australians impacted by DFV across Adelaide and the regions, including 17 in regional areas in Limestone Coast, Murray Mallee and Eyre and Western.<sup>xxvii</sup>

The *Supporting Parents' and Children's Emotions Program*, which provides early intervention support to young parents aged between 12 to 25 years, who are experiencing or perpetuating DFV. The program is run through the Women's and Children's Health Network, as a specialised add-on to its *Young Parents Program*.

Additional funding to the *Domestic Violence Disclosure Scheme* (DVDS) to mid-2024. The DVDS is a free and confidential online application to help people at risk find out if their partner has a history of violent offending or other relevant information, such as previous intervention orders. Persons feeling at risk are also connected with specialist DFV support, whether or not there is information for police to disclose, providing help to make an informed safety plan. Further expanding the scheme from a 'Right to ask' to a 'Right to know' model is also being explored.<sup>xxviii</sup>

Funding in the amount of \$603,000 has been provided to the Department for Correctional Services (DCS) to keep high risk victims/survivors of DFV informed of changes to the circumstances of their perpetrator who is in the custody or under the supervision of DCS.

### **Options to target coercive control**

Increased awareness of coercive and controlling behaviours will likely have an immediate impact on DFV and legal service providers.

Women's Safety Service (SA) (WSSSA) is funded to operate the 24/7 Domestic Violence Crisis line, which provides information and advice and support to develop a safety plan. Additional funding of \$600,000 has been provided to WSSSA to enhance its existing service to include a quick response coercive control assessment, and to provide information and referral to other support services.

The additional funding to WSSSA includes \$3,000 to develop a new (or amend the current) risk assessment tool to assess the coercive control risk factors of persons who contact the Crisis Line. The new tool will link with the existing common DFV Risk Assessment form, which has been used by government and non-government agencies since 2014 to determine the current level of risk to a victim/survivor and any children, and to guide decision making on the type and urgency of response required. The use of a common, agreed risk assessment means that all agencies have a uniform understanding of risk factors and risk levels, to better inform responses and support.

One of the legal remedies to support victims/survivors to mitigate or address coercive control behaviours is an Intervention Order. Victims/survivors can apply to the court to prohibit the perpetrators from engaging in coercive or controlling behaviours against them. All community legal assistance providers, such as the Aboriginal Legal Rights Movement and Women's Legal Service SA, can support an individual seeking an intervention order.

The Women's Domestic Violence Court Assistance Service (WDVCAS) is a statewide free legal assistance service

run by the Legal Services Commission, dedicated to supporting women to navigate the Magistrates Court process of applying for, varying or revoking an Intervention Order. Additional funding of up to \$507,500 over two years has been allocated to the Legal Services Commission for coercive control initiatives, including funding to increase the capacity of WDVCAS to assist victims/survivors experiencing coercive control.

Properly addressing coercive control requires services to be easily accessible and visible via strong referral pathways and no red tape or duplication. This discussion paper seeks feedback on current services, including DFV services, available and their ability to respond to victims/survivors of coercive control. This information will help us to map existing services, to determine gaps, duplications and opportunities for improvements.

#### Questions:

8. What types of coercive control services should be prioritised?
9. Are there any gaps in the services currently available to victims/survivors of coercive control?
10. Are there any current specialist and mainstream service providers that could improve and/or tailor their current services for victims/survivors of coercive control?



### Case Study - Sanaya

Sanaya married when she was 18 and came to Australia with her husband and young child. Sanaya's husband tells her negative stories about other women and communities and insists Sanaya stay away from other mums who talk to her at school drop off and pick up. When Sanaya started her first job she was told to quit after only a few months. Her husband said she was failing as a mother and had abandoned their child. Now, when Sanaya goes out, her husband encourages her to send happy selfies of herself and their child to verify her location. Sanaya is aware that he uses her phone to track her location. When Sanaya arrives home, she feels interrogated about where she's been and who she's spoken with, so she prefers to only go out as a family to avoid confrontation.

### Appropriate responses to and for coercive control perpetrators

The feedback received noted the need for counselling and treatment services for perpetrators of coercive control. Respondents suggested that some perpetrators may have a lack of understanding about the seriousness and impact of their behaviour.

### Current services for DFV perpetrators

There are a range of services available to the Court and in the correctional system which provide therapeutic intervention to perpetrators of DFV. There is also a [dedicated phone line](#) where perpetrators, frontline workers and friends, family and community members can call when they are concerned with the perpetrator's use of violence.

Under section 13 of the *Intervention Orders (Prevention of Abuse) Act 2009*, the Magistrates Court can mandate assessment for and participation in an Abuse Prevention Program (APP) for alleged DFV offenders either as a condition of bail or an Intervention Order. During 2020-21 there were 706 referrals to the APP. Approximately \$668,400 per year is provided by the Courts Administration Authority to run:

- face-to-face group counselling.
- weekly individual counselling for men who are not considered suitable for group participation. This includes men with cognitive impairment or low levels of English language proficiency.
- a culturally safe program for Aboriginal men.

The Department for Correctional Services operates five programs targeting perpetrators of DFV, at a cost of \$9 million per year. These are:

- *The Domestic and Family Violence Intervention Program* and the culturally responsive *Aboriginal Men's Family Violence Program*.
- A suite of Violence Prevention programs (VPP) targeting

perpetrators of violent offending, such as gang violence, homicide, kidnapping and armed robbery. Each of these programs includes a focus on identifying and challenging attitudes supportive of DFV and the dynamics of intimate partner violence. The VPP for Aboriginal men includes a co-facilitation model where Aboriginal staff deliver the program alongside clinical staff from the DCS Rehabilitation Programs Branch.

- *The Cross Borders Indigenous Family Violence Program (CBIFVP)* operates as a tri-state partnership between South Australia, Western Australia and the Northern Territory, with funding contributed from the Australian Government. The CBIFVP receives referrals from police, courts and corrections for men who live in remote Anangu Pitjantjatjara Yankunytjatjara or Ngaanyatjarra Pitjantjatjara Yankunytjatjara communities. The program aims to reduce the incidence of DFV through culturally responsive approaches, including delivering in local language, having a cultural broker present, and challenging attitudes and behaviours in culturally appropriate ways.

## Further considerations

Controlling behaviour is recognised as a foundational aspect of DFV and it is likely that it is already addressed, at least to some extent, in current perpetrator programs. It is noted, however, that the primary trigger for entry to these programs is physical violence or threat. Counselling and treatment programs aimed specifically at coercive control perpetrators who do not use physical violence may be a useful addition to the current suite of perpetrator responses.

This discussion paper seeks feedback on existing perpetrator services and programs. This will enable us to determine opportunities for improvements in the context of coercive control.

### Questions:

11. What types of perpetrator services should be prioritised?
12. Are there any gaps in the services currently available to perpetrators of coercive control?
13. Are there any current specialist and mainstream service providers that could improve and/or tailor their current services for perpetrators of coercive control?

### General questions:

14. Is there anything else that should be considered as part of implementing a criminal offence relating to coercive control?

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<sup>i</sup> ABS Recorded Crime Victims 2020

<sup>ii</sup> In South Australia, Aboriginal is used to describe Aboriginal and Torres Strait Islander peoples.

<sup>iii</sup> Coercive control in domestic relationships Parliament of New South Wales Joint Select Committee on Coercive Control Report 1/57 June 2021 p 15. [Report - coercive control in domestic relationships.pdf \(nsw.gov.au\)](#)

<sup>iv</sup> NSW State Coroners Court 2020

<sup>v</sup> Boxall H & Morgan A 2021. *Experiences of coercive control among Australian women*. Statistical Bulletin no. 30. Canberra: Australian Institute of Criminology. <https://doi.org/10.52922/sb78108>

<sup>vi</sup> ANROWS , Attachment 1, Policy Brief: Defining and responding to coercive control, p2 in Coercive control in domestic relationships, Submission 96 to Parliament of New South Wales Joint Select Committee on Coercive Control Report 1/57 June 2021 p 3. [Report - coercive control in domestic relationships.pdf \(nsw.gov.au\)](#)

<sup>vii</sup> Australia's National Research Organisation for Women's Safety. (2021). Defining and responding to coercive control: Policy brief (ANROWS Insights,01/2021). Sydney: ANROWS. p 4

<sup>viii</sup> Qld Women's Safety and Justice Taskforce: 1 [Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1](#) p 36

<sup>ix</sup> Coercive control in domestic relationships Parliament of New South Wales Joint Select Committee on Coercive Control Report 1/57 June 2021. pp xiv to xvi [Report - coercive control in domestic relationships.pdf \(nsw.gov.au\)](#)

<sup>x</sup> Australia's National Research Organisation for Women's Safety. (2021). Defining and responding to coercive control: Policy brief (ANROWS Insights,01/2021). Sydney: ANROWS. p 5

<sup>xi</sup> Qld Women's Safety and Justice Taskforce: 1 [Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1](#) p39

<sup>xii</sup> Qld Women's Safety and Justice Taskforce: 1 [Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1](#) p37

<sup>xiii</sup> Australia's National Research Organisation for Women's Safety. (2021). Defining and responding to coercive control: Policy brief (ANROWS Insights, 01/2021). Sydney: ANROWS. p 6

<sup>xiv</sup> <https://www.irishtimes.com/news/crime-and-law/call-for-more-garda-training-to-enforce-new-domestic-violence-laws-1.3752299> in ibid 6

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<sup>xv</sup> Australia's National Research Organisation for Women's Safety. (2021). Defining and responding to coercive control: Policy brief (ANROWS Insights, 01/2021). Sydney: ANROWS. p 6

<sup>xvi</sup> Qld Women's Safety and Justice Taskforce: 1 [Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1](#) p 39

<sup>xvii</sup> Scottish Government 'Criminal Proceedings in Scotland, 2019-20', A National Statistics Publication for Scotland, ISBN:9781800049628, 18 May 2021, 4 in *ibid*, Qld Women's Safety and Justice Taskforce: 1 [Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1](#) p 36

<sup>xviii</sup> [QR codes to help keep DV support in the spotlight | Premier of South Australia](#) 30/6/21

[Swipe right to combat sexual violence | Premier of South Australia](#) 26 November 2020

<sup>xix</sup> [QR codes to help keep DV support in the spotlight | Premier of South Australia](#) 30/6/21

<sup>xx</sup> [Swipe right to combat sexual violence | Premier of South Australia](#) 26 November 2020

<sup>xxi</sup> [Think Business, Think Equality, Domestic Abuse case study: Coercive control \(thinkbusinessthinkequality.org.uk\)](#)

<sup>xxii</sup> Coercive control in domestic relationships, Parliament of New South Wales Joint Select Committee on Coercive Control Report 1/57 June 2021. pp xiv to xvi [Report - coercive control in domestic relationships.pdf \(nsw.gov.au\)](#)

<sup>xxiii</sup> <sup>xxiii</sup> Qld Women's Safety and Justice Taskforce: 1 [Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1](#) p 36

<sup>xxiv</sup> [Push to criminalise coercive control in relationships sparks concern for migrant and refugee women \(sbs.com.au\)](#)

<sup>xxv</sup> [Why we need a thorough consultation process on how to effectively address coercive controlling violence \(wlsnsw.org.au\)](#)

<sup>xxvi</sup> [More DV support for regional women than ever before | Premier of South Australia](#) 12/10/21

<sup>xxvii</sup> [Record domestic violence funding in SA | Premier of South Australia](#) 7/2/21

<sup>xxviii</sup> [DV Disclosure Scheme records milestone | Premier of South Australia](#) 26/10/21

Organisation	Contact Name	Title	Email
<b>CCTIF</b>		Director	
Office for Women		Commissioner for Victims' Rights	
Victims of Crime SA		Director	
WCHN - Youth and Women's Safety Wellbeing Division		Policy and Communications Manager	
Embolden		Chief Executive Officer	
No to Violence		Chief Executive Officer	
Women's Safety Services SA		Chief Executive Officer	
Nungar Mi:Minar		Chief Executive Officer	
Korarr Winmil Yunti Aboriginal Corporation		Chief Executive Officer	
OARS Community Transitions		Chief Executive Officer	
Multicultural Communities Council of SA		Chief Executive Officer	
Disability Advocacy and Complaint Service SA		Chief Executive Officer	
Women's Legal Service (SA)		Chief Executive Officer	
Uniting Communities		Chief Executive	
Aboriginal Legal Rights Movement		Chief Executive Officer	
Legal Services Commission		Director	
Centrecare Catholic Country SA		Chief Executive Officer	
South Australian Rainbow Advocacy Alliance		Board Chair	
<b>Legal Sector</b>			
Law Society of SA		President	
Community Justice Services SA		Chief Executive Officer	
Northern Community Legal Service		Director	
Uniting Communities Law Centre		Managing Lawyer	
WestSide Community Lawyers		Managing Lawyer	
Family Violence Legal Service Aboriginal Corporation SA		Chief Executive Officer	
<b>Cross Justice DFV Reform Committee</b>			
ODPP		Director	
DHS		Chief Executive Officer	
SAPOL			
CAA		State Administrator	
DCS		Chief Executive Officer	
<b>Other</b>			
SA Housing Authority		Head of Office for Homelessness and Social Inclusion	
Relationships Australia South Australia		Chief Executive Officer	
<b>2021 Consultation</b>			
Australasian Centre for Human Rights and Health		Chief Executive Officer	
Australian Psychological Society		Senior Lecturer in Law	
University of South Australia		Chief Executive Officer	
NPY Women's Council		Animal Welfare Advocate	
RSPCA		Head of Government Relations	
The Salvation Army		Policy Officer	
Youth Affairs Council of South Australia			

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## COERCIVE CONTROL BACK IN THE SPOTLIGHT

South Australians are being encouraged to have their say on what steps should be taken to ensure efforts to combat an insidious form of domestic violence are successful.

The Attorney-General's Department today released a discussion paper looking at the measures needed to support the implementation of a criminal offence of coercive control, should it be introduced in South Australia.

Coercive control is an often unreported type of domestic violence where an abuser seeks to control someone's behaviour. This could be by attempting to isolate them from friends and family, controlling their finances or attempting to control how they behave.

Coercive control is not a standalone offence in South Australia. This discussion paper explores what implementation processes would be needed should there be a move to criminalise coercive control in the future.

The discussion paper seeks South Australians' views on a range of issues, including the current levels of support, perceptions of coercive control and the best ways to raise awareness of the issue in the broader community.

The discussion paper and details on how to make a submission are available at <https://www.agd.sa.gov.au/coercive-control>, with submissions open until 1 April.

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**Feedback on Coercive Control Discussion Paper**

**To:** Justice Policy and Analytics, AGD

**From:** Royal Commission Response Unit, AGD

**Purpose**

This informal submission is prepared in response to the Discussion Paper titled 'Implementation considerations should coercive control be criminalised in South Australia'.

The purpose of this submission is to highlight the unique nature and pattern of coercive and controlling behaviour that underpins the experience of violence and abuse for women and girls with disability in Australia and the implementation considerations for this cohort should coercive control be criminalised in South Australia.

This submission will provide relevant evidence from expert, professional and lived experience witnesses on coercive control arising from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Royal Commission), with a focus on Public Hearing 17 which explored the experience of women and girls with disability with a particular focus on family, domestic and sexual violence.

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**Disability Royal Commission**

The Royal Commission held a public hearing from 13 to 14 October 2021 which focussed on the experience of women and girls with disability with a particular focus on family, domestic and sexual violence. Due to the ongoing COVID-19 situation and travel restrictions for the Royal Commission, the hearings were held in two parts. Part two of the hearing was held from 28 March to 1 April 2022.

**Public Hearing 17 – Part One**

The scope and purpose of Part one of the hearing was to inquire into:

- the nature and extent of violence and abuse of women and girls with disability in family and domestic settings
- the nature and extent of violence and abuse of people with disability who identify as L(G)BTQIA+ in family and domestic settings
- issues concerning the respect for the sexual and reproductive rights of women and girls with disability
- the nature and extent of services to support women and girls with disability who experience violence and abuse in family and domestic settings, including gaps in specific services to support people with disability
- the role of advocates and support for women and girls with disability and people with disability who identify of the L(G)BTQIA+ community who experience sexual violence and abuse in relationships, family and domestic settings

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- the gaps in the legal protection for people with disability who experience violence and abuse in relationships, family and domestic settings.<sup>1</sup>

In this hearing, Counsel Assisting the Royal Commission noted that the experience of women and girls with disability who have experienced violence and abuse in family and domestic settings has been the subject of many submissions made to the Royal Commission. Women with disability have told the Royal Commission of their experiences of severe physical, sexual and financial abuse at the hands of a partner. Women and girls with disability have also documented their experiences of coercive control by families, parents and guardians. This includes guardians who socially and geographically isolate and financially exploit women in their care.

As you are already aware, the *Family Law Act 1975* (Cth) was amended in 2011 to include examples of conduct that may constitute family violence and limit its application to 'violent, threatening or other behaviour by a person that coerces or controls a member of the person's family (the family member), or causes the family member to be fearful'.<sup>2</sup> These provisions currently only apply to the 35 courts exercising jurisdiction.

The Royal Commission heard from expert witnesses and disability advocates on the factors and circumstances as to why 40 percent of women with disability have experienced physical violence and are also twice as likely to experience sexual violence as women without disabilities.

Dr Jacoba Brasch QC, President of the Law Council of Australia gave evidence that the Law Council of Australia supports the nationally consistent definition of domestic and family violence and has been engaged in consultation with its constituent bodies as to the precise terms of any uniform definition. Dr Brasch gave evidence that there needs to be an overarching framework that already exists in the Commonwealth legislation with the focus being on the coercive controlling conduct that causes fear as the overarching principle, with particulars and specific examples. A roundtable consisting of experts in the area, representatives of each of the law societies and numerous Bars across Australia were strongly in favour of this approach.

Ms Carolyn Frohmader, Executive Director of Women with Disabilities Australia, stated that in her 25 years as CEO, sexual and reproductive rights have been one of the most urgent and unaddressed issues. This is due to the experience of women and girls with disability with:

- Forced and coerced sterilisation
- Forced or limited choices with contraception
- Denial of sexual expression
- Poorly managed birth, pregnancy, and forced or coerced abortion
- Termination of parental rights
- Denial of marriage rights and/or forced or coerced marriage
- Exclusion from sexual and reproductive health information, education, services
- Exclusion from reproductive health screenings, including breast and cervical screening
- Exclusion from domestic violence screening

<sup>1</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability Webpage, [Public hearing 17: The experience of women and girls with disability with a particular focus on family, domestic and sexual violence](#) | Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability

<sup>2</sup> *Family Law Act 1975* (Cth), s 4AB.

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Ms Frohmader noted that women with disability are often seen in the context of impairment and not as women with sexual and reproductive rights. Ms Frohmader indicated that it is legal in Australia to sterilise a woman or a girl with disability solely on the basis of her impairment and in the absence of a life-saving emergency. Ms Frohmader gave evidence asserting that sterilisation can involve a range of different medical procedures to render a woman infertile. Forced sterilisation or forced contraception occurs when the decision making is substituted. Often, consent to either sterilisation or contraception is not obtained. Contraception refers to medical or drug use to manipulate women's reproductive cycles and capacity. Forced sterilisation includes where sterilisation has been authorised by any third party, including parents, courts or guardians.

Ms Frohmader also noted that women with disability have been coerced into forced marriages while living in the community. For example, women with mild intellectual disability being coerced by much older men to get married. Ms Frohmader noted that this particular issue has not been the subject of research in Australia.

Dr Linda Steele, Senior Lecturer within the Faculty of Law at Sydney's University of Technology, gave evidence that applications for sterilisation are more often brought by parents, guardians and medical practitioners. The court is not able to make such orders in the absence of an application by someone with appropriate standing. Dr Steele further provided that non-consensual sterilisation is a form of violence against women with disability. Dr Steele's view is that forced sterilisation should only occur where it is a by-product of treating other conditions such as cancer. Further, Dr Steele stated that if someone cannot give free and informed consent to have parts of their bodies removed, no one else should be able to make that decision.

An exhibit from the Palgrave Handbook of Critical Menstruation Studies on the human rights of women and girls with disabilities and sterilisation and other coercive responses to menstruation was tendered to the Royal Commission. This journal article, written by Dr Steele, asserts that the 'menstruation by women and girls with disabilities and menstrual behaviour purportedly displayed by women and girls with disabilities (for example, poor hygiene management, erratic and emotional behaviour, distress and blood) have been the basis for coercive interventions by parents, carers, medical professionals, and the courts, particularly through sterilisation'.

### Public Hearing 17 – Part Two

The scope and purpose of Part two of the hearing was to inquire into:

- listen to the experiences of women and girls with disability who have experienced violence and abuse and providing a safe, trauma-informed forum for these women to share their experiences
- continue to examine the nature and scope of violence and abuse against women and girls with disability in family and domestic settings
- examine how the National Disability Insurance Agency supports women and girls with disability who experience family and domestic violence and abuse
- expose the gaps in reporting incidents of violence and abuse against women and girls with disability and ask why
- hear about the role of advocates and support services, including legal support, for women and girls with disability experiencing family and domestic violence and abuse

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- examine the practices and policies of the Tasmanian Police to women and girls with disability experiencing sexual, family and domestic violence and abuse.<sup>3</sup>

**Lived experience witnesses**

In this hearing the Royal Commission heard from Claire (pseudonym), a woman living with a physical degenerative condition, who gave evidence of coercive and controlling behaviours from three of her ex-partners. Claire referred to Person 1 who would provide Claire with physical support as well as transport. Claire gave evidence that Person 1 was very controlling about what they did. When Claire attempted to end the relationship, Person 1 questioned her as to how she could do that to him after everything he had done for her. Claire felt guilty and didn't want to let him down. When Claire attempted to end the relationship again Person 1 threatened to kill himself. Claire gave evidence that:

[REDACTED]

Claire also gave evidence about Person 3. When Claire attempted to break up with Person 3, he told her that he was going to kill himself if she left him. Claire stated "I was struggling because I needed help with my daily needs. He provided me assistance in some aspects, but it wasn't a healthy relationship with those types of abusive behaviours".

Claire also gave evidence about Person 4 who had sexually assaulted her on a number of occasions. Claire stated that he would get angry when drinking and would become very coercive and forceful when drunk. Claire relied on Person 4 to help her up and down the stairs and to stand up after sitting for a period of time. Claire gave evidence that Person 4 coerced her into borrowing money from her parents to buy a car, which was put in Person 4's name. Claire felt that given their house and the car was in Person 4's name and the utilities in her name, the options for her to leave him were limited. Claire gave evidence that when they had moved further away from her family and friends, Person 4 started controlling the car they shared and the fuel. Person 4 started to keep track of the kilometres and would accuse her of being with other people. Person 4 would get jealous and angry and accuse Claire of having feelings for other men. Claire gave evidence that she wasn't able to meet other people or socialise without him and this often resulted in sexual coercion.

[REDACTED]

<sup>3</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability Webpage, Public hearing 17: The experience of women and girls with disability with a particular focus on family, domestic and sexual violence | Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability



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**Experiences of Domestic Violence among Women with Restrictive Long-Term Health Conditions Report**

In a 2021 report by the Australian Institute of Criminology (AIC) prepared for the Royal Commission, among 1,705 women with restrictive long-term health conditions during the COVID-19 pandemic, 14.7 percent reported experiences of coercive control (26.8 percent of women being in a current relationship). Further, 82.5 percent reported that it was not the first time it had occurred in their relationship. The AIC defined coercive control as experiencing 'three or more emotionally abusive, harassing or controlling behaviours, indicating a pattern of behaviour' for the purposes of their report. The AIC also reported that it was common for women to report experiencing both coercive control and physical or sexual violence.

Among women with a restrictive long-term health condition, 74.4 percent reported experiencing physical or sexual abuse and coercive control in the three months prior to taking the survey (May 2020) and the majority of women who experienced recent physical or sexual violence and coercive control had experienced violence by their partner prior to the start of the pandemic. The analysis of the survey also found that Aboriginal and Torres Strait Islander women and women from non-English speaking backgrounds were more likely to have experienced physical or sexual violence and coercive control as opposed to non-Indigenous women and women from English-speaking backgrounds.

**Overview of Responses to the Royal Commission's Issues paper on Violence and Abuse of People with Disability at Home**

In March 2022, the Royal Commission published the 'Overview of Responses to the Royal Commission's Issues paper on Violence and Abuse of People with Disability at Home'. A consistent theme in the responses was that people with disability are disproportionately impacted by violence at home.

The paper highlighted that people with disability experience all forms of violence in their homes, including physical, sexual and emotional abuse, coercion and disability-specific abuse. This may include interference with equipment or medication, the use of restrictive practices, forced or coerced isolation and threats to withdraw essential care and support. The responses also highlighted concerns about the removal of children, reproductive violence and abuse, including forced or coerced sterilisation, forced or coerced abortion and contraception.

A number of responses to the Issues Paper also described the connection between financial abuse and other types of abuse from people in supporting roles, asserting complete control over all aspects of an individual's life. This included restricting their movement, controlling their finances, limiting access to support and subjecting women with disability to physical or emotional abuse when the controlling behaviour was challenged.

The responses affirmed widespread support for the expansion of legal and policy definitions of domestic and family violence in a manner which people with disability experience violence and abuse in their homes and relationships. A notable response was that governments should consider 'the types of acts considered to be domestic and family violence to include disability-specific abuse, for example, reproductive coercion and deprivation of supports'.

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### Concluding Observations

If coercive control is to be criminalised in South Australia and/or a national consistent definition of coercive control adopted, the definition must reflect the unique and specific forms of this abuse experienced by women and girls with disability including reproductive and marriage coercion and deprivation of supports.

In implementing coercive control legislation, justice and domestic and family violence system responses must be tailored to the needs of women and girls with disability and address existing barriers experienced by women and girls with disability experiencing family, domestic and sexual violence.

The responses to the Royal Commission showed that women with disability felt as if they had fewer pathways with first responders including police, courts, and domestic violence services who often lacked specialised knowledge in how to support women with disability experiencing family, domestic and sexual violence.

Making coercive control offences effective is reliant on victims being willing, and in a position, to engage with police and open to the potential of criminal charges. This is problematic for marginalised groups, particularly women and girls with disability who may be reluctant to engage with police for fear of not being believed, fear of discrimination, fear that police intervention will escalate abuse, and fear of Child Protection involvement that may result in their child(ren) being taken away or into care. It is particularly problematic for women with disability who may experience increased rates of isolation and lack of social supports.

In 2021, the Royal Commission released a [research paper](#) on police responses to people with disability. It reported that women with cognitive disability who have experienced sexual violence are particularly at risk of stereotyping by police. It further reported that women with disability are thought to be between 4 and 10 times more likely to be victims of sexual violence. There is a significant concern that women with disability who have experienced sexual violence and other forms of violence, abuse, neglect, or exploitation are less likely to report the crime to police given lack of confidence in police to provide a response as well as underlying issues of ableism and sexism in police responses. These barriers to reporting must be addressed if the intention of the legislation, to prevent the escalation of violence and enable earlier justice system intervention, is to be realised.

As appropriately stated in your discussion paper, implementation should also include a focus on inclusivity and the special needs of diverse and vulnerable groups.

Coercive control resources must also be accessible to facilitate the education of women and girls with disability about what constitutes coercive control in the context of family, domestic and sexual violence.

On a final note, any law to criminalise coercive control will only be as effective as those who enforce, prosecute, and apply it. Improving these practices through education and training and embedding best practice and expertise in domestic and family violence and disability in the courts is as important as creating the new offence.

It is also important to consider how South Australia will measure the impact and efficacy of coercive control criminal laws in preventing escalating violence against women and girls with disability. Where coercive control offences have been introduced in other international and state and territory jurisdictions, the only measure of success has been whether the laws have been used. Data is gathered from reports of domestic abuse, arrests for coercive control, charges laid, and successful prosecutions. Victim survivor safety and perpetrator

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accountability must be paramount concern in law and policy responses to family violence. Therefore, it is proposed that efficacy must be considered in terms that include the exploration of the impact of the new offences on:

- Victim survivor safety, recovery and wellbeing
- Victim survivor experience of the court process and the justice system
- Perpetrator accountability, reoffending and behaviour change
- Misidentification and criminalisation of victim survivors
- Criminalisation of marginalised population groups.

For more information on relevant hearings Public hearing 17: The experience of women and girls with disability with a particular focus on family, domestic and sexual violence | Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability,

<https://disability.royalcommission.gov.au/public-hearings/public-hearing-17>

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OFFICE OF THE PUBLIC ADVOCATE

**Submission to:**

**Attorney General's Department: Discussion Paper**

**IMPLEMENTATION CONSIDERATIONS SHOULD COERCIVE  
CONTROL BE CRIMINALISED IN SOUTH AUSTRALIA**

**April 2022**

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## OFFICE OF THE PUBLIC ADVOCATE SUBMISSION

### ATTORNEY GENERAL'S DEPARTMENT: DISCUSSION PAPER

#### **'IMPLEMENTATION CONSIDERATIONS SHOULD COERCIVE CONTROL BE CRIMINALISED IN SOUTH AUSTRALIA'**

The Office of the Public Advocate (OPA) supports the statutory role of the Public Advocate to work with and on behalf of people with cognitive impairment and their family, carers, and friends. It also assists people and organisations with an interest in issues arising from cognitive impairment.

The OPA welcomes the opportunity to provide feedback to the Attorney General's Department (AGD) in response to the *'Discussion Paper: Implementation considerations should coercive control be criminalised in South Australia'*. We understand the importance of an effective implementation process if the long-overdue offence of coercive control is to be successfully enacted in South Australia.

The AGD discussion paper provided a comparison between Australian and international jurisdictions and the uptake of the coercive control offence. It was surprising to see that Tasmania is the only jurisdiction in Australia which has legislated stand-alone offences for coercive control, although it appears that New South Wales is currently in the process. The establishment of an effective implementation process as identified in the overseas jurisdictions, specifically Scotland, would undoubtedly assist in ensuring the effectiveness of having the offence if it is legislated in South Australia.

The focus of our feedback will be on people with cognitive impairment, including older people with dementia. However, this does not diminish the importance of effective implementation considerations in relation to all vulnerable people in South Australia.

We provide feedback to the questions posed in the discussion paper below.

#### **Awareness raising and engagement**

##### **1. What are the key messages that should be communicated about coercive control?**

It is most important to highlight the fact that domestic violence does not only include physical abuse, but also psychological abuse. The insidious nature of coercive control means it can be easily hidden and is very subtle. It happens often and is a course of conduct rather than a single incident. Vulnerable people including older people with dementia and people with a cognitive impairment are more likely to be victims of coercive control and would especially benefit from it being a criminal offence.

##### **2. What are the best mediums to communicate information about coercive control to your community?**

Information should be available in an easy to read and a plain English version. Such information could be made available on the OPA website and through the OPA information service, both in digital and hard copy formats. There would need to be training materials available for all staff likely to work with people who experience coercive control, so that they can recognise the behaviours and are aware of what to do if they believe a person may be a victim.



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### General Feedback:

The OPA supports the current and future initiatives to raise awareness and engagement for coercive control throughout the South Australian community with a focus on people with a disability and other vulnerable people.

### Education and training for first responders, the legal sector and service providers:

#### **3. How is coercive control understood by you and more broadly within your community?**

Coercive control is a form of domestic violence, which is not widely understood due to its insidious nature and the vulnerability of the people in our community. The fact that it is usually carried out by someone who is in a relationship of trust with the victim adds to the confusion and lack of understanding that the perpetrator's actions are wrong.

#### **4. If it were made an offence, what might this mean to you and the people around you?**

The enactment of a coercive control offence would be welcomed by the OPA as an additional safeguarding measure for vulnerable people in South Australia. People with cognitive impairment are often victims of domestic and other violence and it is often difficult to get a conviction in these circumstances. This is particularly true of the crime of coercive control which is insidious and subtle meaning the victim may be easily confused about what is happening.

#### **5. If you were concerned about the use of coercive control as an individual, or on behalf of someone else, what systems and services would you approach for support or advice?**

The service provided by the Adult Safeguarding Unit established under the *Ageing and Adult Safeguarding Act 1995* (SA) is located in the Office for Ageing Well of SA Health. The Adult Safeguarding Unit supports adults vulnerable to abuse including older people, Aboriginal and Torres Strait Islander people and people living with a disability. For older people advice and assistance could be sought from the Aged Rights Advocacy Service and for younger people with disabilities help can be requested from any of the six disability advocacy services in SA. As a last resort a guardianship order could be sought from the SA Civil and Administrative Tribunal (SACAT) so that the victim is protected by coming under the guardianship of a trusted individual or the Public Advocate.

#### **6. What education and training is needed to improve the justice sector's understanding of coercive control and detect, investigate and prosecute coercive control appropriately?**

The police and legal practitioners often find it difficult to prosecute a perpetrator of domestic and family violence against a person with a disability, an older person with dementia or a person living with a mental health condition. This is because the offence is subtle, it is usually hidden within a family or a relationship, and the victim is easily confused. Therefore, the police and legal practitioners would require training in what coercive control means for a person with cognitive impairment and how to refer the victim for support and, if necessary, get statements from them in ways that do not disadvantage the victim and can stand up in court.

#### **7. What education and training is needed for organisations that work with victims/survivors and perpetrators of coercive control e.g. in health, housing, education, etc.?**

It would be beneficial for these organisations to be trained in identifying the behaviours in both victims/survivors and perpetrators which may be an indication of coercive control and to establish processes that can be followed when such abuse is suspected.

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### General Feedback:

The discussion paper's recommendation that such training is partly developed by people with lived experience of coercive control, including older people, people with disability and those living with a mental health condition, is welcomed by the OPA.

### Support services for victims/survivors:

#### **8. What types of coercive control services should be prioritised?**

The OPA would welcome the prioritisation of any services which specifically provide support for victims/survivors living with cognitive impairment, including victims of crime services, vulnerable witness support, legal aid and advocacy services

#### **9. Are there any gaps in the services currently available to victims/survivors of coercive control?**

The OPA recommends services specifically for older people with dementia, especially considering the prevalence of coercive control through financial abuse by the children of elderly parents. Also recommended are services which are specific to adults, of any age, living with cognitive impairment.

#### **10. Are there any current specialist and mainstream service providers that could improve and/or tailor their current services for victims/survivors of coercive control?**

The Adult Safeguarding Unit, the Aged Rights Advocacy Service, Legal Aid, Victims of Crime and the individual disability advocacy services could possibly tailor their current services to specifically support victims/survivors of coercive control.

### General Feedback:

As the perpetrators of financial abuse in older people are often family members, many victims may not wish to report the abuse to avoid causing trouble for the family member in question. Therefore, the OPA suggests the establishment of a mediation service which provides conciliation and counselling for the victim and the perpetrator. As a result, it is likely that a victim of coercive control would be more willing to engage with this type of service rather than one which potentially escalates the issue to a criminal offence for the perpetrator.

### Appropriate responses to and for coercive control perpetrators:

#### **11. What types of perpetrator services should be prioritised?**

The current intervention programs which provide counselling and treatment should be prioritised as a tool for preventing the conduct from further escalating. However, the OPA notes the point made in the discussion paper that currently physical violence is the primary trigger for entry into these programs and that programs 'aimed specifically at coercive control perpetrators who do not use physical violence may be a useful addition to the current suite of perpetrator responses.'

#### **12. Are there any gaps in the services currently available to perpetrators of coercive control?**

As above.

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**13. Are there any current specialist and mainstream service providers that could improve and/or tailor their current services for perpetrators of coercive control?**

The OPA supports the expansion of existing perpetrator counselling and treatment programs to be aimed specifically at coercive control perpetrators. Such programs should take into consideration the possibility that perpetrators of coercive control span a continuum from malevolent sociopaths out to control everybody in their lives to overeager family members seeking to protect a person with cognitive impairment who mean well and are unaware of their controlling behaviour. Therefore, counselling and behaviour management programs would need to be tailored to the nature of the perpetrator.

**General questions:**

**14. Is there anything else that should be considered as part of implementing a criminal offence relating to coercive control?**

The OPA highlights the importance of clarifying that coercive control is not just inflicted by an 'intimate partner' but can also be committed by family members, friends, people providing a service and anyone in any form of relationship with the victim. The Act is limited to intimate partners and is a good start, but it does not address the vulnerability of people with disabilities to this form of abuse from a wider group of people (family members, service providers and community agencies).

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# Implementation Considerations for the Criminalisation of Coercive Control in South Australia.

Released by AGD, under the FOI Act 1991 (SA)

**April 2022**

Prepared by Laura Henschke, Legal and Policy Officer & Taran Buckby, Legal and Policy Assistant



Full Stop Australia acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to elders both past and present.



## 1. Summary of Recommendations

Full Stop Australia (FSA) supports the criminalisation of coercive control as one piece of a broader plan of action to properly and meaningfully respond to the scourge of coercive control. FSA acknowledges that criminalisation in and of itself is not a silver bullet and must be accompanied by whole-of-government measures to educate, inform and train the justice system and the wider community.

FSA has had the benefit of reviewing Embolden's position paper<sup>1</sup> released in September of last year and an advance draft of their submission for this review, and we support their recommendations in the position paper that the SA Government:

1. Work with other States and Territories and the Federal Government to establish a national definition of sexual, family and domestic violence in which coercive control is recognised as a pattern of abuse.
2. Work with other States and Territories and the Federal Government to establish a national definition of sexual assault which encompasses coercive control.
3. Commit to funding, promoting and supporting community education and awareness of coercive control in the context of sexual, domestic and family violence.
4. Ensure best practice justice, legal and service system responses to and in the prevention of coercive control through close consultation with community members and key stakeholders, specifically in considering risks and potential impacts on First Nations women, children and communities, people living with a disability, LGBTIQ+ communities and women from culturally and linguistically diverse communities.
5. Conduct a review of the current criminal and/or civil law and how it responds to coercive control, including reviewing existing legislation and processes such as the efficacy of intervention orders, with clear, evidence-based recommendations and pathways to action.
6. Review the risk assessment, practice manual and sharing protocols of both the Multi-Agency Protection Service and SA Family Safety Framework, to determine whether coercive control is adequately and appropriately defined, recognised and responded to.
7. Invest in evidence-based and trauma-informed responses, interventions and programs which support women and children's safety and freedom from abuse, encompassing

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<sup>1</sup> Embolden SA Inc: *Position Paper on Coercive Control and the Law in South Australia*, September 2021.



primary prevention, intervention, crisis response and recovery, which are underpinned by an understanding of the gendered drivers of violence.

8. Commit to significant training and awareness measures for the South Australian Police force and other relevant whole-of-system bodies to recognise and respond to domestic violence and sexual assault, and to recognise and respond to the presence of coercive control. Such training is essential for all relevant law enforcement, healthcare and justice system officials.
9. Increase funding to specialist women's and culturally specific services that advance gender equality and women's empowerment with a client-centred and rights-based approach.

FSA also calls for the South Australian government to immediately increase sector funding of specialist services who work with survivors of coercive control, whilst working towards national definitions and greater community understanding of coercive control more broadly.

Finally, FSA submits that the criminalisation of coercive control must be implemented as a whole-of-government reform, which requires at a minimum:

- regular and rigorous community and stakeholder consultation including targeted consultations with survivors with lived experience of coercive control;
- drastically increased sector funding of specialist services (including specialist sexual assault services, health and community legal services) to meet the inevitable increase in demand which will occur as a result of increased community awareness and understanding of coercive control;
- whole of community awareness and education measures in all settings informed by sector expertise and lived experience; and
- whole-of-system training for the justice system, first responders and other actors such as GPs who receive disclosures.

We will now briefly deal with each theme of the consultation paper.

## 2. Awareness Raising and Engagement

FSA submits that it is essential for there to be a strong community awareness campaign in conjunction with the criminalisation of coercive control. Without community awareness of any new offences, they will not operate to the fullest extent and will be underutilised. Evidence from Tasmania demonstrates the dangers of criminalising coercive control without implementing community awareness and education programs. In Tasmania, it took three years for charges to be brought under the new legislation, and one of the key reasons for this was the lack of

community awareness about the offence.<sup>2</sup> Further, there was little media coverage in relation to the new offence and a lack of support provided to legal and non-legal services.<sup>3</sup> We submit that SA could learn from this experience, in ensuring a comprehensive education and awareness campaign so that all the key institutions and the community more broadly obtain an understanding of this insidious aspect of domestic abuse.

ANROWS' National Community Attitudes towards Violence Against Women survey (NCAS) found that there is a great deal of work to do in educating the community that domestic abuse can be psychological.<sup>4</sup> Indeed, nearly 1 in 5 Australians do not believe financial control is a serious problem.<sup>5</sup> These results make it clear that there are still widely held beliefs in our society that domestic abuse is merely physical violence.

To achieve substantial community awareness and understanding, right throughout the community, it is necessary to resource and support this activity at the community level. It is only community leaders themselves, in families, schools, workplaces, sporting clubs and religious and cultural institutions that can generate significant and lasting understanding and cultural change. Engagement with state-wide and local community organisations, including First Nation communities, multicultural communities, people with disabilities, LGBTIQ communities, Youth and Older Persons, will be essential in ensuring widespread understanding and empowerment.

### 3. Education and Training

For the criminalisation of coercive control to be effective, FSA believes that a genuine approach to system-wide reform must be undertaken which results in real practice change. There must be a commitment to orientation and training, ongoing reflective practice, alongside accountability and a comprehensive review of behaviours and institutional practices. Literature and research engaging with institutional and behavioural change shows that much is needed in order to successfully achieve system-wide reform.

Research shows that attempts to address the behaviours and attitudes of police officers towards gendered violence through training alone has had minimal impact.<sup>6</sup> A study conducted in the United Kingdom evaluated the effectiveness of specialist rape investigation training between officers and found no differences between those who received the training and those who did

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<sup>2</sup> Women's Legal Service Tasmania 2020, 'Inquiry: Submission into Family, Domestic and Sexual Violence,' p.6.

<sup>3</sup> Ibid.

<sup>4</sup> Australia's National Research Organisation for Women's Safety. (2018). *Are we there yet? Australians' attitudes towards violence against women & gender equality: Summary findings from the 2017 National Community Attitudes towards Violence against Women Survey* (NCAS) (Research to policy and practice, 03/2018). Sydney, NSW: ANROWS

<sup>5</sup> Ibid.

<sup>6</sup> Anthony Murphy and Benjamin Hine, 'Investigating the demographic and attitudinal predictors of rape myth acceptance in U.K. Police officers: developing an evidence base for training and professional development', (2019) 25(2) *Psychology, Crime & Law* 69-89.

not.<sup>7</sup> Such ineffectiveness is argued to be, in part, due to the narrow focus of most interventions, without considering the broader context of such beliefs, and a failure to embed a more reflective practice within training programs to help drive institutional change.<sup>8</sup>

FSA submits that whilst orientation and training of specialist workers is integral in the criminalisation of coercive control, this training cannot be the *only* condition in which we achieve system-wide change, we also need to consider the broader context of domestic and family violence, as well as continuously reflect on practices and review behaviours and attitudes within institutions.

Sexual, domestic and family violence exists within a broader framework of sociocultural attitudes and beliefs. Attitudinal systems related to gender and sexuality have been shown to have significant impact on perceptions of victimhood, with a subscription to traditional gender-role beliefs and male dominance.<sup>9</sup> Further, the beliefs and practices of trained specialists such as police officers are developed and maintained within a broader cognitive framework. Research conducted highlights how several demographic and attitudinal factors influenced police officer's ambivalent sexism and hostility towards women, proving that regardless of receiving specialist training and being key service responders to victims of sexual, domestic and family violence, due to the broader negative and sexist sociocultural beliefs, a high degree of sexist attitude exists within police officers.<sup>10</sup> Results from this study support the idea that efforts to train, raise awareness and address sexist beliefs in specialist services also **must** consider the broader attitudinal context of sexual, domestic and family violence.<sup>11</sup>

Although some positive examples of training programs exist, most studies suggest that attitudinal intervention, such as specialist training, are ineffective *in and of themselves* for changing ingrained beliefs. Foregrounding the complexities of, and resistance to, attitude change within institutions of which these programs are hoping to bring about.<sup>12</sup> Crucially, the study highlights that "any evidence-based training should encourage critical, reflective awareness of the beliefs and subjectivities officers hold and the impact these have on the judgements they may make regarding victims and cases".<sup>13</sup> For system-wide reform to be effective in the criminalisation of coercive control, there has to be a genuine commitment to a more reflective practice and systemic change, alongside considering not just the act of coercive control within sexual, domestic and family violence cases, but also the context of coercive control within broader cognitive and attitudinal contexts.

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<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid, 73.

<sup>10</sup> Ibid, 83.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid, 85.

#### 4. Supports and Services for victim-survivors

By recognising coercive control as a crime, the broader service system, including child protection, health, ageing, disability, education, housing, social, legal, youth and family services, must update their own definitions, policies, practices and procedures, which will increase the safety and accessibility of these services for victim-survivors of sexual, domestic and family violence. Awareness and recognition within these public and non-government institutions of the nature and seriousness of coercive control will also result in improved screening, risk assessment, and referral processes so that victim-survivors are offered safety and support sooner.

Importantly, criminalising coercive control will allow victim-survivors to be heard and have their experiences validated. Victim-survivors often say that psychological abuse, intimidation, coercion and controlling behaviour was the worst aspect of an abusive relationship.<sup>14</sup> Without an offence of coercive control the current laws operating in SA fail to capture the most traumatising elements of a victim's experience and victims voices will continue to be unheard. Crucially, criminalising these behaviours will give victim-survivors the language to describe what the perpetrator has been doing to them and legitimise their perceptions that these behaviours are unacceptable and against the law.

#### 5. Appropriate Responses to and For Perpetrators

FSA submits that it is fundamental to the safety and wellbeing of women, children and communities that perpetrators of coercive control are held accountable for their behaviour and supported to change. Any meaningful policy framework to address gender-based violence must incorporate an integrated system for perpetrator intervention and behaviour change. If coercive control was criminalised the offence would carry its own penalty, and this would allow courts to specifically sanction offenders for this behaviour as appropriate. This would in turn ensure that offenders are held to account for the full extent of their coercive and controlling behaviours and their cumulative harm as opposed to single incidents of violence. It would also likely result in earlier intervention, which creates an excellent opportunity for diversion and behavioural intervention.

The law is a blunt instrument when it comes to social practices of violence rooted in gender inequality and our current adversarial system cannot address the full range of needs of victims for safety and recovery and the effective rehabilitation of offenders.<sup>15</sup> There is an opportunity for criminalising coercive control to facilitate earlier interventions in abusive relationships before

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<sup>14</sup> 'Amanda Gearing, 'Coercive control and domestic abuse: what might have saved Hannah Clarke and her children?' The Guardian (online 29 February 2020) < <https://www.theguardian.com/society/2020/feb/29/coercive-control-and-domestic-abuse-what-might-have-saved-hannah-clarke-and-her-children>>.

<sup>15</sup> Jarryd Bartle, 'Should it be a crime to exert 'coercive control,' over a domestic partner?' *Sydney Criminal Lawyers* (Article, 10 October 2020) < [Should it Be a Crime to Exert 'Coercive Control' Over a Domestic Partner? \(sydneycriminallawyers.com.au\)](https://www.sydneycriminallawyers.com.au)>.

violence escalates further. The UK Law Commission shared this position, expressing that the fair labelling of offenders as perpetrators of coercive control may contribute to the rehabilitation of that offender.<sup>16</sup>

Police, magistrates and judges have often relayed that they would like to have more accredited behaviour change programs within and outside of a prison environment as appropriate in accordance with risk. Criminalising coercive control and catching early and hidden abuse will afford this opportunity, provided the SA government is committed to investing in these programs state-wide.

## Conclusion

In sum, FSA argues in this submission that the criminalisation of coercive control must be considered as a package reform, to which extensive community and stakeholder consultation, improved sector funding of specialist services, increased awareness measures, whole-of-system training, improved community education and the establishment of national definitions will work together to help put a full stop to sexual, domestic, and family violence.

For further information please contact Laura Henschke, FSA's Legal and Policy Officer on [laurah@fullstop.org.au](mailto:laurah@fullstop.org.au)

## About Full Stop Australia

Full Stop Australia (FSA) is an accredited, nationally focused, not-for-profit organisation which has been working in the field of sexual, domestic and family violence since 1971. We offer expert and confidential telephone, online, and face to face counselling to people of all genders who have experienced sexual, domestic or family violence, and specialist help for their supporters and those experiencing vicarious trauma. We also provide best practice training and professional services to support frontline workers, government, the corporate and not for profit sector. Finally, FSA advocates with governments, the media and the community to prevent and put a full stop to sexual, domestic and family violence.

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<sup>16</sup> Law Commission, *Reform of Offences Against the Person; A Scooping Consultation Paper* (Consultation paper No 217) 217



## EMBOLDEN SA INC:

SUBMISSION TO ATTORNEY-GENERAL'S  
DEPARTMENT DISCUSSION PAPER:

IMPLEMENTATION CONSIDERATIONS  
SHOULD COERCIVE CONTROL BE  
CRIMINALISED IN SOUTH AUSTRALIA

APRIL 2022

Released by AGD, under the FOI Act 1991 (SA)

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## About Embolden

Embolden is the statewide peak body of organisations working to respond to and eliminate domestic, family and sexual violence in South Australia.

Our members provide services that promote women and their children's safety and wellbeing, and work to prevent and respond to violence against women.

We lobby and advocate for women's rights to respect, safety and self determination, and represent providers of specialist services in the domestic, family and sexual violence and related sectors, including services that work with men who use violence against women and Aboriginal specialist services.

## Acknowledgement of Country

We acknowledge and respect Aboriginal peoples as the state's first peoples and nations, and recognise Aboriginal peoples as traditional owners and occupants of land and waters in South Australia. Sovereignty has never been ceded. It always was and always will be, Aboriginal land.

We recognise that their spiritual, social, cultural and economic practices come from their traditional lands and waters, that they maintain their cultural and heritage beliefs, languages and laws which are of ongoing importance, and that they have made and continue to make a unique and irreplaceable contribution to the state.

We acknowledge that Aboriginal peoples have endured, and continue to endure, injustices and dispossession of their traditional lands and waters.

We continue to pay respect to the resilience and strengths of Ancestors and Elders past, present and those emerging.

## About this Submission

This submission has been prepared by Embolden with consultation and input from its members and key stakeholders, including women with and without children who have lived experience of domestic, sexual and family violence.

The term 'gender-based violence', used throughout this submission, allows us to encompass not only intimate partner or domestic and family violence, but also sexual violence committed outside of intimate relationships as well as violence against women committed by and within institutions. This term encompasses violence committed against women (both cisgender and transgender) as well as non-binary people, serving as "an umbrella term for any harmful act that is perpetrated against a person's will and that is based on socially ascribed (i.e., gender) differences between males and females" (UNFPA 2019). The term 'gender-based violence' draws the attention to underlying drivers of violence that are rooted in rigid and binary gender norms, gender inequality, unequal power relationships, coercion and control (UNHCR 2020) "that are reinforced by patriarchal social constructs" (Domestic Violence Victoria 2020, pg. 77). It includes sexual violence that can occur both within and outside the context of domestic and family violence.

## Acronyms used

<b>ACCO</b>	Aboriginal community controlled organisations
<b>CALD</b>	Culturally and linguistically diverse
<b>CSJ</b>	Criminal justice system
<b>DFV</b>	Domestic and family violence
<b>DFSV</b>	Domestic, family and sexual violence
<b>DPO</b>	Disabled people's organisations
<b>ISG</b>	Information sharing guidelines
<b>LGBTIQ+</b>	People who are lesbian, gay, bisexual, transgender, intersex or queer
<b>NOSPI</b>	National Outcome Standards for Perpetrator Interventions
<b>RRR</b>	Rural, regional and remote areas
<b>SWDFSVS</b>	Specialist women's domestic, family and sexual violence services
<b>TPV</b>	Temporary Protection Visa



This submission is provided on behalf of our member organisations, including:

Bramwell House  
Ceduna Regional Domestic Violence and Aboriginal Family Violence Services  
Coober Pedy Regional DV & Aboriginal Family Violence Service  
Cross Border/APY Lands Aboriginal Family Violence Service  
Fleurieu and KI DV Service  
Homelessness Gateway Service  
Kornar Winmil Yunti Aboriginal Cooperation  
Limestone Coast Domestic Violence Service  
Murray Mallee and Adelaide Hills DV Service  
Nunga Mi:Minar  
OARS Community Transitions  
Port Augusta Regional DV & Aboriginal Family Violence Service  
Relationships Australia (SA)  
Riverland Domestic Violence Service  
Victim Support Service  
Vinnie's Women's Crisis Centre  
Whyalla Regional Domestic Violence Service  
Women's Legal Service SA  
Women's Safety Services SA  
Yarredi Services  
Yarrow Place  
Yorke and Mid North Domestic Violence Service  
Zahra Foundation Australia

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## INTRODUCTION

*"Whatever laws we have will be only as effective as those who enforce, prosecute and apply them. Improving these practices – through education, training and embedding best practice and family violence expertise in the courts – is likely to be more effective than simply creating new offences"*  
(State of Victoria 2016, pg. 27)

*"The actual reception of coercive control by the justice system is likely to be as much a by-product of administration, enforcement, implementation and interpretation as of guidance received from statutory language"*  
(Stark 2020, pg. 35)

Embolden welcomes the opportunity to provide input into the Government of South Australia Attorney-General's Department Discussion Paper on implementation considerations should coercive control be criminalised in South Australia.

Coercive control encompasses a wide range of behaviours and forms of abuse, intended to "hurt, humiliate, intimidate, exploit, isolate and dominate" (Stark 2007, pg. 5) that are implemented as tools in order to exert dominance and control over another person or people. It can be hard to recognise, even for victim-survivors themselves, and the negative impacts can be severe and long lasting, even (and in some cases, particularly) after separation from an abusive relationship.

As Stark and Hester (2019) note, over the past two decades, legislative approaches to coercive control prevention and response have outpaced efforts to build the evidence base and test the model. It is incumbent upon policymakers to proceed cautiously, consult thoroughly, and build in iterative evaluation and consultation across all stages of development and implementation, if such approaches are to safely, equitably and effectively achieve their aims for legal redress, perpetrator accountability and victim-survivor safety.

Embolden is committed to partnering with the State Government, SAPOL, research bodies, other NGOs and stakeholders to improve whole-of-system responses, support and outcomes for victim-survivors of GBV, including those at risk of; experiencing; or recovering from coercive control and related abuses.

## DISCUSSION

### Awareness raising and engagement

#### 1. What are the key messages that should be communicated about coercive control?

Coercive control, its causes, effects, prevention and response is a complex, highly nuanced and evolving paradigm for those seeking to understand gender-based violence – in particular, what it is; why it occurs; who wields it and is affected by it; where and how it is used, and how to prevent and respond to its prevalence. Significant challenges are faced by policymakers, frontline services, victim-survivors and communities alike in the course of seeking these understandings, not least those surrounding the lack of a common national definition that encompasses the full range of controlling and manipulative behaviours that are weaponised by perpetrators in order to instill in their victim “a condition of entrapment that can be hostage-like in the harms it inflicts on dignity, liberty, autonomy and personhood as well as to physical and psychological integrity” (Stark 2012, p. 7).

Until such a common definition is found and agreed upon, alongside the National Principles on Addressing Coercive Control currently being developed by the Meeting of Attorneys-General (MAG 2021) upon the recommendation of the House of Representatives Standing Committee on Social Policy and Legal Affairs report from its Inquiry into Family, Domestic and Sexual Violence (2021), caution must be recommended as to the development and dissemination of public communication campaigns on the issue of coercive control in order to ensure clarity and avoid confusion among individuals, agencies and communities. It is expected that the establishment of the National Principles will be able to inform a common language and framework for understanding key concepts relating to coercive control, which in turn may provide a solid foundation for education, awareness and public communication initiatives including key messages to be conveyed.

With that caveat in place however, there exist key themes based upon available evidence and building upon the work of experts including specialist women's domestic, family and sexual violence practitioners, gender-based violence researchers and advocates with lived experience that may be immediately adapted and utilised in public messaging initiatives, including:

- That coercive control is a significant issue facing Australia, and prevention and response to coercive control is everyone's responsibility
- That despite the prevalence of coercive control, it is not part of a 'normal' relationship dynamic and is not a feature of any one culture, class, race or other community identity or family/relationship. However, some people are more vulnerable to experiencing coercive control, including First Nations women and children, people with disability, women on temporary visas, pregnant women and women with children. That is, those who are already impacted by intersecting systems and sites of inequality, oppression and marginalisation
- Victim-survivors must not be shamed or blamed for their experiences, and their voices and experiences must be amplified and central to any and all prevention and response initiatives
- Everyone has the right to live their life free of violence, and to enjoy full human rights and autonomy
- Coercive control is gender-based violence
- Children are and must be considered/supported as victims in their own right where coercive control is used in their families

## **2. What are the best mediums to communicate information about coercive control to your community?**

In determining the most effective media mix to communicate information about coercive control to various audiences, close consideration must be given to the unique needs of different communities, including those determined by geography/region and otherwise defined, including First Nations peoples, faith-based, cultural background, LGBTQI+ and other communities of identity. Embolden strongly recommends that further and ongoing consultation be done with identified communities, and that a community engagement framework is developed, implemented with appropriate and sustainable resources, and evaluated with an evaluation report being made publicly available, and acted upon in further iterations of the framework.



Overarching principles recommended by Embolden include that:

- Accessibility of media messages must be central, with particular consideration given to engage people with disabilities, people of non-English speaking backgrounds (NESB), older people and young people
- A community engagement framework should be developed, comprising a considered mix of traditional mass media; new and emerging media technologies including but not limited to social media platforms; resources for community and business leaders, etc to facilitate community responses and discussions; posters, brochures and other promotional and informational materials. Learnings may be considered from multi-behavioural health promotion campaigns, such as smoking cessation and other health interventions (Egger *et al* 1983)
- Consider using arts and cultural policy levers to promote survivor-led stories and use arts practice as a platform for exploring and unpacking complex narratives and theories of change
- The innovative approaches made by the South Australian State Government, for example in engaging dating app Tinder to deliver the 2021 sexual violence communications campaign, "See it for what it is. Sexual violence" (DHS 2021) is welcomed, and that innovativeness should be extended to future communications campaigns
- Carefully consideration and preparation for risks of adverse outcomes should be undertaken. Mass media campaigns may in the past have contributed to escalation and/or incidences of violence by perpetrators who are angered/threatened by messages. This may especially be pertinent given characteristics of coercively controlling abusers

## **Education and training for first responders, the legal sector and service providers**

### **3. How is coercive control understood by you and more broadly within your community?**

Coercive control is a pattern of controlling and manipulative behaviours and “acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim” (Women’s Aid 2020, pg. 1). It is not a ‘type’ of domestic, family and intimate partner violence (Stark & Hester 2019), rather, it is a redefinition of the key ways in which we understand the nature and pattern of behavior present within violent relationships and the power relationships it creates. Physical violence, emotional, financial, and psychological and other forms of abuse cannot be seen as separate ways in which DFV is experienced.

Coercive control describes the way in which these expressions of abuse are used and woven together in relationships that disempower and undermine victim-survivors’ perception of the human rights violations that are occurring. Such behaviours are “often very direct expressions of key underlying drivers of family violence and violence against women, particularly in regard to rigid gender stereotypes, men’s control of decision making and limits to women’s independence and an inappropriate sense of entitlement” (Respect Victoria 2021, pg. 1). This encompasses violation of physical integrity; denial of respect and autonomy; isolation; and ultimately stripping away all vestiges of autonomy, liberty and personhood (Stark 2007).

It is here worth noting that the evidence base and driving force behind recognition, prevention and response of coercive control remains firmly situated within an intersectional feminist praxis since its popular definition by Evan Stark (2006, 2007), building upon the work of (amongst others) Dobash & Dobash (1979), Herman (1992), Jones (1994), Pence & Paymar (1993) and Johnson (1995). The literature in an Australian context is greatly strengthened by the contributions in particular of Fitz-Gibbon, Walklate & Meyer, and McMahon & McGorrey and the work of ANROWS and the Monash Gender and Family Violence Prevention Centre.

More broadly however, foundational concepts such as coercive control being driven by gender inequality and intersecting forms of oppression are still not generally well understood (Webster *et al*/2018). Neither are the ongoing impacts of trauma and retraumatisation often experienced by victim-survivors.



**4. If it were made an offence, what might this mean to you and the people around you?**

The creation of a criminal offence(s) addressing coercive control holds potential for both positive and harmful outcomes for victim-survivors, as well as those who support them in a service capacity and within the broader community. On one hand, some victim-survivors may be able to access enhanced legal, economic and other systemic protections and outcomes. On the other, criminalisation of coercive control could lead to "harmful unintended consequences for victim-survivors (Maturi & Munro 2020), particularly those who already have experienced poor or otherwise compromised justice system responses, including First Nations women and their communities (Douglas & Fitzgerald 2018), women with disabilities (McVeigh 2015), LGBTIQ+ people, CALD communities, including migrant and refugee women (Judicial College of Victoria 2011), and women from lower socio-economic backgrounds" (Embolden 2021, pp 15-16)

A powerful protective factor against such harmful unintended consequences may be found in the adoption and development of a 'coercive control framework' as defined by Stark, which "[identifies] a singular malevolent intent to dominate, whatever the interplay of the means deployed to instil fear of resistance/refusal and/or dependence/incapacitation. Properly drawn, *coercive control sets physical and sexual violence against women in the context of myriad complementary nonviolent coercive and controlling tactics* that make the serious criminal intent to dominate coherent over time and across social space." (Stark 2020, pg. 40, emphases added). Such a framework is a paradigm shift from a 'violence model' which views the severity of abuse through a prism of episodic violence, rather than chronic harm caused by sustained abusive behaviours (Stark 2012).

**5. If you were concerned about the use of coercive control as an individual, or on behalf of someone else, what systems and services would you approach for support or advice?**

The SWDFVS sector -- encompassing domestic, family and sexual violence, women's health and legal services in particular -- has developed, maintained and refined the knowledge, skill and competence required to tailor service responses for victim-survivors of coercive control that apply a safety first principle and coercive control framework. These systems and services need to be adequately resourced and supported to deliver those services comprehensively and equally for women, non-binary people and children accessing assistance now and into the future. Embolden believes that the role of the specialist women's service sector is vital in South Australia's response to coercive control and as a member of the Australian Women against Violence Alliance (AWAVA), have developed a Policy Brief to that effect, stating that:

*"These services know how to plan for safety and assess complex and changing risks; they advocate for and with victims/survivors and support them to navigate complex systems; they understand the dynamics of violence and the impacts of trauma; and they use principles of empowerment and client-centred approaches to support women and their children to recover from the impacts of violence and trauma. These services have led prevention efforts and created men's behaviour change programs that hold women's and children's safety at their core. Specialist services contribute to social change using their on-the-ground knowledge of women's experiences" (AWAVA 2016)*

In addition to place-based SWDFSV services, further key systems and services available for support and advice for victim-survivors of coercive control, their friends and family, by-standers and other concerned parties include:

- Support, counselling and referrals available through 1800 RESPECT (hotline and web-based support) and the South Australian Domestic Violence Crisis Line (DVCL)
- SAPOL, including specialist FDV units and the Domestic Violence Disclosure Scheme (DVDS)
- Specialist perpetrator intervention services including but not limited to men's behavior change programs
- Lived experience advocacy and/or support groups

**6. What education and training is needed to improve the justice sector's understanding of coercive control and detect, investigate and prosecute coercive control appropriately?**

In order to safely and effectively implement coercive control legislation, it is crucial that specialist justice sector education and training is made available, that is trauma-informed and evidence-based, developed and delivered by specialist women's led services from an intersectional feminist framework, and co-designed by victim-survivors. Such training may possibly be modelled after the Domestic Abuse (DA) Matters Scotland, the SafeLives UK/Police Scotland training program for law enforcement, which incorporates a 'Health Check', Train the Trainer course, Senior Leaders workshop and both intensive and on the job e-learning and face to face training for police officers and staff. The program is geared towards effecting mass behavioural change among the police force, training and deploying "Domestic Abuse Matters Champions" to lead change and support their colleagues (SafeLives 2020).

Specific topics, themes and modules of education and training which Embolden recommends include:

- Recognising and responding to coercive control, including questioning of victims and identification of perpetrator tactics to control victim-survivors and manipulate first responders and others
- Identifying the primary aggressor and predominate victim-survivor, as the impact of a criminal conviction for victim-survivor can have long lasting impact -- not just in relation to any one particular legal interaction, but with regards to family court and child protection proceedings, impact on employment, access to housing, mental health and other potentially devastating adverse outcomes
- Complex causes and consequences of DFSV
- Specialised training in interpreting legislation, admissibility of evidence, prosecuting and sentencing
- Cultural capability, accessibility and safety, developed and delivered by ACCOs, DPOs and CALD services working within the SWDFSV sector with appropriate funding and resources made available for this work
- Integration of any new legislation with existing laws and legal processes, including IOs, family law and child protection
- Compassion fatigue, burnout and vicarious trauma
- Public acknowledgement for excellence in practice within the sector
- Professional community of practice and accreditation framework



- Access to specialised education and training through e.g. ANROWS, Our Watch, Monash Gender and Family Violence Prevention Centre, NTV and bespoke offerings from the SWDFSV sector
- WESNET-provided training for magistrates and law enforcement on the impact of DFSV and technology, particularly around technology-facilitated abuse

**7. What education and training is needed for organisations that work with victim-survivors and perpetrators of coercive control e.g. in health, housing, education, etc?**

As for the legal and justice sector, in order to safely and effectively implement new and existing legislation relating to coercive control in South Australia, and more broadly to improve prevention and response initiatives within a whole-of-system approach, it is crucial that specialist education and training is made available to service providers working with both victim-survivors and perpetrators of coercive control, that is:

- Trauma-informed and evidence-based
- Developed and delivered by specialist women's led services from an intersectional feminist framework, and
- Co-designed by victim-survivors

Specific topics, themes and modules of education and training which Embolden recommends include:

- Recognising and responding to coercive control
- Complex causes and consequences of DFSV
- Referral pathways
- Cultural capability, accessibility and safety, developed and delivered by ACCOs, DPOs and CALD services working within the SWDFSV sector with appropriate funding and resources made available for this work
- Primary prevention including but not limited to respectful relationships programming for education settings
- Reporting obligations, processes and outcomes
- Compassion fatigue, burnout and vicarious trauma
- Mainstream relationship counselling and mediation services in particular should receive education and training to recognise and refer to specialist services
- Public acknowledgement for excellence in practice within the sector
- Professional community of practice
- Access to specialised education and training through e.g. ANROWS, Our Watch, Monash Gender and Family Violence Prevention Centre, NTV and bespoke offerings from the SWDFSV sector

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## **Support services for victim-survivors**

### **8. What types of coercive control services should be prioritised?**

More and more women are recognising themselves as victims/survivors of coercive control and seeking supportive measures for their own and their children's safety, at least in part as a result of unprecedented levels of government and community commitment to domestic and family violence and women's safety prevention and response. However, due to chronic underfunding of specialist women's domestic and family violence services (SWDFVS) at the front end of this crisis, there is no guarantee that their efforts to seek help will result in the delivery of the targeted and purpose-specific care they need.

Services which should be immediately prioritised in order to address coercive control prevalence and its effects include:

- Specialist women's legal services with expertise and insight into systems abuse as a common tactic used by perpetrators, in many cases continuing years post-separation
- Specialist services for mothers and children, recognising children as victim-survivors in their own right
- Specialist women and non-binary led DFSV Police units
- Early intervention supports and services
- Culturally appropriate and accessible supports and services
- Lived experience support and advocacy
- Place-based services particularly supporting victim-survivors in regional, rural and remote communities

**9. Are there any gaps in the services currently available to victim-survivors of coercive control?**

As addressed in more depth below in response to Question 10, a sustained lack of sustainable, adequate funding for specialist services has been a leading contributor to gaps in services currently available to victim-survivors of coercive control. In particular, the SWDFSV sector has identified crucial gaps in service delivery and supports for victim-survivors facing intersecting forms of oppression, marginalisation and inequality.

Priority areas to address these gaps include:

- Specialist services for marginalised communities, including but not necessarily limited to Aboriginal and Torres Strait Islander peoples, LGBTQI+ community, CALD, migrant and refugee communities (particularly for women on TPVs), people with disability, children and young people, older people, those in regional, rural and remote settings (Embolden 2020)
- Support and services for victim-survivors who face barriers to mainstream service and justice responses, and/or may not wish to commence legal proceedings relating to their experiences of coercive control
- Prevention, early intervention and recovery
- Financial support
- Safe and appropriate housing with suitable exit points from crisis system
- Adequately funded, collaborative services for victim-survivors and corresponding perpetrator interventions – a bridge that enables collaboration in a solely funded collaborative model, not reliant on homelessness as a response. The SA service system utilises the Information Sharing Guidelines (ISG), but without the funded services and workforce required to provide the levels of response suitable and required in many circumstances (if not all)

**10. Are there any current specialist and mainstream service providers that could improve and/or tailor their current services for victim-survivors of coercive control?**

Given the current dynamic state of play of research and practice into addressing coercive control, there are significant opportunities for all service providers, both specialist and mainstream, to build upon the evidence base and improve service offerings to victim-survivors of coercive control. In order to improve upon and tailor such services within a coercive control framework, Embolden recommends governments of all Australian jurisdictions increase funding to specialist women's and culturally specific services that meet the standards the Australian Women Against Violence Alliance (AWAVA) has set out, which stipulate:

- A rights-based approach
- Advancing gender equality and women's empowerment
- A client-centred approach
- Women's safety is central
- Perpetrator accountability
- Accessible culturally-appropriate and sensitive services

Further to this recommendation, Embolden shares support for the development and adoption of good practice standards by all services working with women and children in South Australia facing violence, led by the specialist women's services sector, building on work already done by peak bodies and others in the area. Examples include:

- NASASV Standards of Practice for Services Against Sexual Violence<sup>1</sup>
- DV Vic Code of Practice<sup>2</sup>
- DV NSW Good Practice Guidelines<sup>3</sup>
- AWAVA Policy Brief on the Role of Specialist Women's Services<sup>4</sup>

<sup>1</sup> Can be accessed here: [http://www.nasasv.org.au/PDFs/NASASV\\_Standards\\_2nd\\_Edition\\_2015.pdf](http://www.nasasv.org.au/PDFs/NASASV_Standards_2nd_Edition_2015.pdf)

<sup>2</sup> Can be accessed here: <https://safeandequal.org.au/wp-content/uploads/DV-Vic-Code-of-Practice-V2-FINAL.pdf>

<sup>3</sup> Can be accessed here: <http://dvnsw.org.au/wp-content/uploads/2017/08/DFV-Practice-Guidelines.pdf>

<sup>4</sup> Can be accessed here: <https://awava.org.au/2016/04/07/research/role-specialist-womens-services-australias-response-violence-women-children>



## Appropriate responses to and for coercive control perpetrators

### 11. What types of perpetrator services should be prioritised?

As with supports and services for victim-survivors of coercive control, perpetrator services, including men's behavioural change programs and other interventions, are in need of greater investment in order to improve and fill gaps to service offerings (ANROWS 2020).

In particular need of prioritisation are:

- Specialist perpetrator intervention services for marginalised and diverse communities, including First Nations, LGBTQI+, CALD and migrant/refugee men, young men and those in rural, regional and remote locations
- Services that are evidence-led and that adhere to the principles of the National Outcome Standards for Perpetrator Interventions (NOSPI), namely:
  - Women and their children's safety is the core priority of all perpetrator interventions
  - Perpetrators get the right interventions at the right time
  - Perpetrators face justice and legal consequences when they commit violence
  - Perpetrators participate in programmes and services that change their violent behaviours and attitudes
  - Perpetrator interventions are driven by credible evidence to continuously improve
  - People working in perpetrator intervention systems are skilled in responding to the dynamics and impacts of domestic, family and sexual violence (AIHW 2021)
- Services that are connected to the specialist women's-led service sector
- Services connected to the Family Court system
- Opportunities for early interventions prior to a criminal justice response, where able to be identified and available
- Services while on remand, ideally intercepted within 48-72 hours of incident/arrest

- Perpetrator housing support and services, delivered alongside corresponding funding for victim-survivor services to support women to remain in their own home

**12. Are there any gaps in the services currently available to perpetrators of coercive control?**

Related to the above discussion of perpetrator service priorities, specialist perpetrator behaviour change programs and services need to be better resourced to connect with relevant departments and agencies, and to lead consistent, constructive approaches to perpetrator intervention and behaviour change models.

Current gaps in service offerings for perpetrators of coercive control include:

- Specialist perpetrator intervention services for marginalised and diverse communities, including First Nations, LGBTQI+, CALD and migrant/refugee men, young men and those in rural, regional and remote locations
- Housing and homelessness services, particularly affordable, accessible, culturally safe and appropriate accommodation solutions
- Better opportunities to identify perpetrator behaviour on the common risk assessment tool if there is no connection with the victim-survivor at the point of assessment – i.e., from the perpetrator intervention aspect, whether there has been criminal justice response or not, to identify risks and then be able to provide this information as appropriate under ISG
- Voluntary and alternative programs, including early intervention and education, that operate independently from the criminal justice system (CJS) response
- Father specific responses, particularly in relation to DCP matters, that provide opportunities to address and understand impacts of perpetrator behaviour on children



**13. Are there any current specialist and mainstream service providers that could improve and/or tailor their current services for perpetrators of coercive control?**

In addition to the principles set out in Question 10 above, specialist and mainstream service providers working with perpetrators of coercive control that may improve and/or tailor their current service offerings within a coercive control framework and with reference to the NOSPI include:

- All perpetrator service providers and agencies across intervention systems as identified in the SA DFV Perpetrator Intervention Systems Map (Upton-Davis & Chung 2020), particularly those working within the Family Safety Framework (FSF) and Multi-agency Protection Service (MAPS)
- Services and supports provided by OARS Community Transitions 'Don't Become That Man' program to be re-funded
- Implementation of waitlist support/intervention/accountability and more detailed case management – not attendance management – services within the Courts Administration Authority (CAA) Abuse Prevention Program
- After-program support for those mandated (and not) to attend programs, to check in on progress, and re-refer for additional support as required
- Opportunities for the Centre for Restorative Justice to formulate and pilot the implementation of well-structured, trauma-informed and victim-survivor-led restorative conference and supports
- Increased therapeutic community intervention programs (such as those provided by OARS Community Transitions) for perpetrators and incorporation of increased intervention opportunities for the Crisis Accommodation Program (CAP)
- Increased referral pathways and community engagement to raise awareness for perpetrator services that promote intervention and CAP opportunities
- Aligned with needs for the SWDFSV sector, a fully funded connected approach to early intervention that doesn't revolve around homelessness

## FURTHER CONSIDERATIONS/CONCLUSION

### 14. Is there anything else that should be considered as part of implementing a criminal offence relating to coercive control?

Many, if not all of the above recommendations and discussion remain relevant whether or not (or when) perpetration of coercive control does become a criminal offence in South Australian law. These systemic and cultural reforms remain necessary and will serve to strengthen the legal and justice responses already in place to protect victim-survivors.

Our position, detailed in our Position Paper on Coercive Control and the Law in South Australia (Embolden 2021) stands that critical steps remain yet to be taken before new coercive control legislation is introduced, including referring the matter of coercive control's place in law to SALRI to report on the potential benefits, risks and other consequences of introducing new legislation, and review existing legislation and processes including the efficacy of intervention orders, with clear and evidence-based recommendations and pathways to action. Further, Embolden encourages close consideration of the findings and recommendations from the forthcoming *Powerful Interventions* research report undertaken by the University of South Australia and Uniting Communities into the intervention order system in SA, with particular reference to implications for coercive control legislation implementation.

We reiterate the need for all processes, services and initiatives to be trauma-informed and survivor led, with ongoing consultation and co-design by victim-survivors and affected marginalised communities which must be underpinned by principles of empowerment, diversity, inclusion and operate within a human rights framework -- victim-survivors and perpetrators must face no wrong door, but no one-size-fits-all approaches either when it comes to services, systems and supports.

Finally, we urge that more research must be done and the evidence base must continue to be heard and incorporated at every step along the path to improving supports and outcomes in the prevention and response to coercive control in our communities: "At a minimum, qualitative and quantitative research is needed to clarify the interplay of violent, merely coercive, and psychological dimensions of this form of abuse in different population and relational contexts; specify which elements of coercive control, either separately or through their combination, elicit which outcomes and for whom; determine which elements/effects are contingent on preexisting status vulnerabilities (such as inequality) and which are relationship or context-

specific; and map the survival, coping, resistance, and accommodation strategies as victimized partners (and children) craft “space for action” in the face of tyranny. The most obvious evidence of “control” is provided by abusive tactics, such as “he monitored my time” or “denied me money.” But in the most vulnerable populations—undocumented women or women of color, for instance—individual deprivations are confounded by economic inequalities, cultural bias, and institutional barriers that have yet to be integrated into the model of harm, a process that Ptacek (1999) called social entrapment” (Stark & Hester 2019, pg. 88)

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# **Discussion Paper: Implementation of coercive control offences in South Australia**

Summary of submissions

April 2022

Released by AGD, under the FOI Act 1991 (SA)



Government of South Australia  
Attorney-General's Department

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## Introduction

The Discussion Paper: Implementation of coercive control offences in South Australia was released for public consultation on 2 February 2022, to obtain feedback on fourteen questions under the themes of awareness raising, education and training, services for victim-survivors and responses to perpetrators. The consultation period closed on 1 April 2022.

The Attorney-General's Department received 22 submissions from a broad range of agencies and organisations, including general support services for victim-survivors and perpetrators, legal assistance services, advocacy groups, an academic and interested individuals. A full list of respondents is provided in Appendix 1.

This report provides a summary of the feedback provided against each question as well as additional issues raised by respondents.

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## Question 1: What are the key messages that should be communicated about coercive control?

Most respondents were supportive of a strong community awareness campaign for coercive control in conjunction with the creation of a criminal offence. Respondents identified three key messages that should be communicated as part of any such campaign, discussed below.

- **What is coercive control and what does it look like?**

Respondents noted the need for the community to have a greater understanding of coercive control, to be able to recognise these behaviours and respond appropriately.

*"Awareness raising and community understanding of the nature of coercive control is fundamental to the successful implementation of any legislation."*

Important messages about the nature of coercive control include:

- It is a pattern of behaviour over time rather than a single incident
- It is a key component of domestic and family violence
- It is a significant issue in Australia and prevention and response is everyone's responsibility
- It presents in many forms beyond physical aggression, and the behaviours may change over time. It may include subtle behaviours, or behaviours that may not be obvious to an external party but have a coded meaning for victim-survivors. Some groups may also experience specific forms of coercive control, such as spiritual abuse for Aboriginal peoples, threats regarding immigration status for women on temporary visas, and denial of reproductive and sexual rights for persons living with disability
- It is gender-based violence, being experienced more by women and perpetrated by men
- It can occur in different types of relationships beyond intimate partners, for example, control over a parent or of a child, between extended family members or in non-familial caring relationships
- It affects both current and former relationships, often extending beyond separation
- Children are victims of coercive control and domestic and family violence in their own right when it is perpetrated in their families
- Some people or groups can be more vulnerable to experiencing coercive control including Aboriginal women and children, people with disability, pregnant women, women with children, and older people
- Victim-survivors should not be blamed or shamed for their experiences
- Not all victims-survivors may describe that they are being coerced
- Everyone has the right to live their life free of violence and to enjoy full human rights and autonomy.



- **Impact of coercive control**

A number of respondents felt it was important for awareness campaigns to communicate the serious impacts of coercive control on victim-survivors, to assist in the identification of this abuse and to highlight the importance of responding appropriately. Specifically, that coercive control:

- can be equally harmful to, and sometimes more harmful than, physical violence
- results in fear, isolation, loss of self-worth and dignity, loss of autonomy and loss of capacity for decision making
- can have a cumulative impact over time
- can have serious consequences for the health, emotional and psychological wellbeing of victim-survivors

*“Coercive control needs to be understood by what it takes away or how it makes you feel... “*

- **Responding to coercive control**

One respondent recommended any messaging about coercive control be delivered in stages, with the initial stage describing what it looks like and why it is wrong, and a second stage about how victim-survivors, perpetrators and family members can respond. This could include information about:

- What the law says about coercive control
- The role of the new offences in providing protection from abuse
- What you can do if you are a victim-survivor of coercive control? E.g:
  - Support services
  - Maintaining documentation (to assist in future prosecution)
- What you can do if you know, or are worried about, someone who might be a victim-survivor of coercive control
- If you feel you may be a perpetrating coercive control in your relationship(s), where you can talk to someone about this and what help is available.

Almost all respondents stressed the importance of messaging about coercive control that was representative of and tailored to:

- Aboriginal and Torres Strait Islander peoples and nations
- Culturally and linguistically diverse communities
- People living with disabilities
- LGBTQIA+ peoples
- Older persons
- Rural and regional communities

### **Other considerations**

Several submissions noted that National Principles on Addressing Coercive Control are currently being developed by the Meeting of Attorneys-General upon the recommendation of the House of Representatives Standing Committee on Social Policy and Legal Affairs report from its Inquiry into Family, Domestic and Sexual Violence (2021). National Principles will be able to inform a common language and framework for understanding key concepts relating to coercive control, which in turn can guide education, awareness and public communication initiatives.

To avoid confusion among individuals, agencies and communities, one respondent called for caution on the development and dissemination of public communication campaigns until a common definition of coercive control is agreed.

## Question 2: What are the best mediums to communicate information about coercive control to your community?

Respondents consistently reported that coercive control community awareness campaigns should include all forms of media and be available in multiple languages and formats to capture different cohorts: Specific suggestions were:

- Social media
- Television
- Radio, including community radio
- Digital platforms
- Bus stops
- Billboards
- Flyers and information available at pubs and events (e.g. music festivals, major sporting events)
- Community education delivered through community service organisations, sporting clubs, council groups and community centres
- Community speaking platforms for victim-survivors to share their lived experience

*"I have also found through my experience that just talking about your experience to others who are open to listening without judgement is a form of healing whilst also educating. My friends have heard my story so far and whilst they saw some behaviours ... whilst we were married, had no idea the depth of control that went on behind closed doors."*

- Dissemination of information (flyers, brochures, posters) through services and government agencies (health clinics, General Practitioners, legal support services, women's services)
- Mandatory respectful relationships programs in schools (Years 8 to 12), universities, workplaces, sporting clubs and community groups
- Age-appropriate discussions with younger children (prior to Year 8)
- Mediums specific to LGBTIQ+ South Australians such as:
  - TikTok
  - Grindr
  - Image based platforms like Instagram
  - Queer advocacy organisations like SARAA
  - Queer bars and venues
  - Community organisations like TransMasc SA, Drop in Care Centre, Queer Youth Drop In and Feast
  - Health services like SHINE SA and SAMESH
- Resources for community and business leaders
- Consider using arts and other cultural policy opportunities to promote survivor led stories

- Questionnaires that prompt increased understanding e.g. the Don't Become That Man Service questionnaire which asked the question "Are you aware of the signs" and had the reader consider several scenarios, culminated in recommending men contact the service if they had answered yes to any of the questions
- Accessible formats, including easy to read and plain English to ensure engagement with people living with disability, people of non-English speaking backgrounds, people with other literacy barriers.

Several submissions also reported the critical importance of direct consultation with victim-survivors and specific communities to determine the best ways to communicate information about coercive control.

### Other considerations

One respondent requested consideration and preparation for the risk of adverse outcomes during an awareness campaign, such as escalation in the type and number of incidences of violence by perpetrators who are angered or threatened by messages.

### Question 3: How is coercive control understood by you and more broadly within your community?

Respondents generally reported their understanding of coercive control in terms of a range of controlling and manipulative behaviours used by perpetrators over time (a course of conduct) to control their partners and family members. Additional comments were:

- Coercive control is not widely understood by most of the community, with even greater lack of understanding by vulnerable groups such as women living with disability. One respondent noted that their members were generally unfamiliar with the term and initially unsure of its scope, but were able to recall experiences once definitions and examples were provided.
- Coercive control is usually carried out by someone in a relationship of trust with the victim, which adds to the lack of understanding that the actions are wrong.
- Coercive control encompasses psychological, physical, sexual, financial and emotional abuse, and controlling behaviours, defined as making a person subordinate and / or dependent by isolating them from their sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape, and regulating their everyday lives.

6(1) Personal affairs

## Other considerations

### *Definition of coercive control*

Eight submissions called for a clear definition of coercive control, with three supporting a national definition, to enable a shared understanding of the behaviour and appropriate responses. As noted, National Principles on Addressing Coercive Control are currently being developed by the Meeting of Attorneys-General (MAG 2021).

Specifically, respondents noted:

- terminology and definitions are important, and it should be clear and universal what the issue is
- any definition must reflect the unique and specific forms of abuse experienced by women and girls with disability
- a nuanced definition should be adopted that reflects the range of tactics a perpetrator may use in different contexts
- a definition must take into account that:
  - abuse is not limited to physical violence but inclusive of all forms of aggression where there is a pattern of behaviour characterised by the use of force (name calling, threats, public denigration) and / or other controlling aspects (financial abuse, monitoring and surveillance) of a persistent and an emotionally abusive nature
  - the impact of the abuse on the victim-survivor (fear, isolation, loss of self-worth and dignity, loss of autonomy and capacity for decision making)
  - the intention or motivation behind the behaviour on the part of the perpetrator (subjugation, physical coercion, isolation, degradation, intimidation)
  - types of behaviour may change over time and vary in modality (e.g. in person vs online), frequency, and severity
  - current and former relationships as coercive control may extend beyond separation

One respondent recommended consideration of the Scottish Domestic Abuse Act, which uses a course of conduct model and extensively defines abusive behaviour. The respondent was supportive of a broader definition beyond domestic partner or former partner, including Aboriginal kinship roles and other kinds of personal relationships.

Another respondent expressed concern about a prescribed understanding of coercive control, arguing that it does not have a universal context or set behaviour, particularly in relation to remote Aboriginal communities. For these communities, who are using their specific strengths and understandings for solutions and decision making in relation to domestic and family violence, the respondent reported that a universal prescribed response may contribute to ongoing oppression and systematic violence against Aboriginal women, children and communities.

## Question 4: If it were made an offence, what might this mean to you and the people around you?

The submissions outlined the potential for both positive and negative outcomes for victim-survivors should coercive control be made an offence, while others expressed doubts that it would have any significant impact.

### Potential benefits of making coercive control an offence:

- Recognises the seriousness of the behaviour and reinforces the understanding that we do not accept or tolerate it
- Recognises the importance of maintaining a person's right and capacity to prioritise their own safety and wellbeing
- Will allow victim-survivors to be heard and have their experiences validated
- Can make a positive difference to the wellbeing, mental health and sense of self-worth of victims and assist them in seeking appropriate and prompt help much earlier in a relationship
- Perpetrators will know that their behaviour is unlawful and that they can be held accountable through a jail sentence or other penalties
- Service provider staff will have clear guidelines and boundaries about the behaviour which will assist in supporting victim-survivors and guiding responses to perpetrators
- Provides an additional safeguarding measure for vulnerable people in South Australia, including people with cognitive impairment
- Access to enhanced legal, economic and other systemic protections and outcomes.

*"I believe if it were an offence the offender in my situation would have been charged and would have been forced to stop the behaviours, although if he chose to continue along the coercive control behaviours, I would have had more protection for my wellbeing and safety through police having the ability to apprehend the perpetrator."*

### Potential issues for a coercive control offence

- A coercive control offence may result in harmful unintended consequences for victims particularly those belonging to groups disproportionately represented in the criminal justice system, such as Aboriginal women and their communities, women with disabilities, LGBTIQ+ people, culturally and linguistically diverse communities (including migrant and refugee women) and women from lower socio-economic backgrounds.
- A coercive control offence may contribute to the growing incarceration and criminalisation of Aboriginal women through the misidentification of victims of long-term significant violence as primary aggressors, then being defendants on reciprocal intervention orders and being charged with assault at high rates. This is a particular concern in small communities where there is significant bias relating to race and gender and a general misunderstanding of broader patterns of domestic and family violence.

*"The risk of disproportionate criminalisation / incarceration of perpetrators from these groups, and compounding of cascading risk (e.g. loss of housing, child protection interventions, loss of income support) needs to be considered prior to criminalisation of coercive control and implementation of legislation."*



- An unintended consequence of a coercive control offence may be that violence escalates if perpetrators are held to account

*"It's unclear, but quite likely making coercive control and offence will mean more - not less - physical violence against the people around me. There's good reason to think charging and convicting those using coercive control will have little or no effect on reducing violence and may well escalate non-physical violence to physical violence - especially where these laws result in incarceration."*

- Potential for the offence to be used as a weapon by perpetrators, by accusing the victim-survivor of coercive control and involving them in potentially drawn-out legal matters. Legal system abuse is one of the ways perpetrators continue abuse after separation. For example, in the intervention order system, some perpetrators force a trial and then appeal the original decision.
- Difficulties in policing a coercive control offence:
  - Police first responders will not always have access to systems that look across time and will not have the ability to examine financial or technological records. Without proper training, Police may not have the expertise or the time to undertake appropriate enquiries, particularly in remote and regional areas.
  - Cultural barriers in policing domestic and family violence: whilst police have some training and general orders contain directions to provide a culturally safe response, community attitudes still reflect that there are cultural barriers in policing.
- It may be difficult for prosecutors to successfully establish an offence of coercive control. The prosecution of an offence presents a less rapid response, potentially requiring a higher standard of proof than current legislation (*Intervention Orders (Prevention of Abuse) Act 2009*). This has implications for victim-survivors who face the distressing experience of giving evidence, with a slim possibility of a meaningful result. A number of respondents noted collaborative research currently underway between Uniting Communities and UniSA, and funded by the Law Foundation of South Australia, may be helpful when considering coercive control legislation. The report: *Powerful Interventions: Improving the use and enforcement of Intervention Orders as a tool to address family and domestic violence in South Australia* is due to be published in June 2022. The research aims to clearly describe the existing legislation governing the issue, use and enforcement of intervention orders and identify potential barriers to the effectiveness of this legal framework in South Australia.
- The legal emphasis in criminalising coercive control does not recognise that some victims will not want to pursue criminal charges, but will want behavioural change, which may be achieved by alternative resolution methods such as restorative justice and counselling for partners.
- While strongly supporting criminalisation, one respondent noted that LGBTIQ+ communities will need additional, culturally appropriate support for the legislation to be used effectively in these communities. LGBTIQ+ persons are unlikely to report abuse unless they are supported to feel safe, trust they will be believed, will not face homophobia, and will be provided with appropriate responses.

## **No impact**

Three submissions were of the view there was little evidence to suggest criminalisation, in and of itself, will have the desired impact for victims in addressing the behaviours and lowering rates of coercive control. Specifically:

- new offences will only increase ability of criminal justice systems to respond if they correctly identify non-physical abuse
- In view of limited success elsewhere, it is essential there is:
  - a significant increase in available services to support women and other victims pre and post the legal process
  - a significant increase in perpetrator services at the earliest opportunity to engage men, regardless of criminal charges or conviction being recorded.

*“Is there any evidence that criminalising coercive control reduces the incidence of coercive control or physical violence in the community? ... What I do see is evidence that people are being arrested, prosecuted and convicted... But is it reasonable to assume convictions mean the laws are 'working' and reducing abusive behaviour?”*

It was also noted by one respondent that how the offence is defined and the supports and training to be rolled out as part of the implementation process for the offence, will determine the potential impact for victim-survivors, perpetrators and the criminal justice system.

### **Question 5: If you were concerned about the use of coercive control as an individual, or on behalf of someone else, what systems and services would you approach for support or advice?**

Respondents reported a wide range of services and supports that could be approached by individuals concerned about the use of coercive control.

#### **Victim-survivors**

- Friends
- Lived experience advocacy and/or support groups
- Criminal Justice /legal assistance services
  - SA Police (including specialist domestic and family violence units)
  - Domestic Violence Disclosure Scheme
  - Women's Legal Service
  - Legal Services Commission
  - Women's Domestic Violence Court Assistance Service
  - Family Law Services
- Health services
  - Hospitals and emergency departments
  - Child and family health nurses
  - Mental Health
  - Alcohol and drug
  - Aboriginal controlled health services
  - Women's health services
- Specialist Domestic and Family Violence services
- Women's safety services
- South Australian Domestic Violence Crisis Line
  - Safe at Home services (assessment, safety management planning, home security audits and coordination of security upgrades)

- 1800 RESPECT support, counselling and referrals (24 hour hotline and web-based support)
- Other telephone support services like Lifeline and Kids Helpline
- Rebuild (Counselling for Victims of Crime) and Victims of Crime SA
- Family Relationship Centres
- Homeless services
- Schools
- Child Protection services
- Multicultural services
- Hairdressers and beauticians
- Animal shelters
- Workplace programs that can identify and respond and support women in the workplace experiencing coercive control
- Community services organisations, which are key entry points for social and material support for victims
- Adult Safeguarding Unit located in the Office for Ageing Well. The Adult Safeguarding Unit supports adults vulnerable to abuse including older people, Aboriginal people and people living with a disability.
- Aged Rights Advocacy Service for older people
- Six disability advocacy services in SA for younger people
- SACAT - as a last resort - the victim-survivor is protected by coming under the guardianship of a trusted individual or the Public Advocate.

## Perpetrators

- Specialist perpetrator referral and intervention services, including No to Violence Men's Referral Service and Brief Intervention Service (time limited, multi-session telephone support for men pre and post behaviour change who are currently on a waiting list for men's family support).

## Question 6: What education and training is needed to improve the justice sector's understanding of coercive control and detect, investigate and prosecute coercive control appropriately?

*"Any law to criminalise coercive control will only be as effective as those who enforce, prosecute, and apply it. Improving these practices through education and training and embedding best practice and expertise in domestic and family violence and disability in the courts is as important as creating the new offence."*

*"...any evidence-based training should encourage critical, reflective awareness of the beliefs and subjectivities officers hold and the impact these have on the judgements they may make regarding victims and cases."*

Respondents were generally consistent in calling for justice sector education and training that is:

- evidence-based

- co-designed and delivered with victim-survivors
- trauma informed
- incorporates cultural considerations for Aboriginal peoples and culturally and linguistically diverse communities
- focused on vulnerable victim-survivors including older persons, and persons with disability
- delivered across all sectors of the justice system - police, prosecution and judiciary - including both criminal and civil jurisdictions
- provided on a regular and consistent basis, with refresher programs incorporating the latest evidence and best practice models.

A number of respondents called for compulsory domestic violence training for first responders, prosecutors, the judiciary and Magistrates Court staff. Most respondents provided broad suggestions, without specifying a particular branch of the justice sector.

Suggested topics for inclusion in training:

- How to recognise coercive control, including:
  - patterns of behaviour – moving from incident-based approach to an understanding of coercive control course of conduct (particularly for police)
  - impacts – isolation, fear, anxiety, harm to mental health, use of alcohol and other drugs, and impact on family relationships
  - identifying the predominant aggressor during domestic and family violence call outs
  - awareness of manipulative behaviour
  - myths and misconceptions about coercive control and how to counter them
  - in the broader context of sexual, domestic and family violence
- How to respond to a victim-survivor in a trauma informed manner
  - It was noted that victim-survivors may not respond in a manner that is deemed consistent with the stereotypical view of victims, to the extent that police may question survivor credibility. It is quite common for victims to develop maladaptive coping behaviours and may also be flat and emotionless in their retelling of incidents and / or they may have disjointed recollections, as a result of post-traumatic stress disorder.
- How to engage victim survivors, including those from vulnerable or diverse groups:
  - awareness of cultural considerations for Aboriginal and culturally and linguistically diverse communities that might impact on the victim-survivor disclosing to police
  - understanding of what coercive control may mean for person with cognitive impairment or other disability
  - that actions do not re-victimise the victim-survivor and pressure or persuade a change in response
- How to identify and provide appropriate:
  - safety strategies for victim-survivors
  - referrals to support services
  - consequences for perpetrators to keep victims safe
- The role each agency plays in effectively addressing the issue (to ensure a coordinated and prompt safety response).

For police, it was suggested that training cover how to gather evidence for coercive control matters including:

- Initial investigation should comprise
  - Photographs of scene and injuries
  - Medical evidence of any injuries

- Recording of emergency response call
- Evidence from family or friends
- Specialist knowledge and interview skills to support gathering of evidence, including how to obtain statements from persons with cognitive impairment that do not disadvantage the victim-survivor.

One respondent suggested key questions to ask victim-survivors as part of the consultation process in developing training:

- What will be useful, respectful, and relevant immediate responses from the justice system?
- What steps can be implemented quickly to ensure the safety of victim-survivor and the safety of their children and other people of concern?
- What steps can be implemented quickly to ensure that the perpetrators stop using these forms of violence and abuse and are held accountable for causing the victim-survivor to experience fear and harm?
- What other relevant agencies could the justice system be liaising with for a comprehensive overview of the situation and to ensure the safety of victims/survivors, children and family members?
- What coercive control acts create fear (even if the acts may appear to be 'minimal' or 'not relevant' to issues relating to domestic and family violence)?

The following models were suggested for training programs in South Australia:

- Domestic Abuse (DA) Matters Scotland
- SafeLives UK / Police Scotland training program for law enforcement, which incorporates a 'Health Check', Train the Trainer course, Senior Leaders workshop and both intensive and on the job e-learning and face to face training for police officers and staff. The program is geared towards effecting mass behavioural change among the police force, training and deploying "Domestic Abuse Matters Champions" to lead change and support their colleagues (SafeLives 2020).

## **Question 7: What education and training is needed for organisations that work with victim-survivor and perpetrators of coercive control e.g. in health, housing, education, etc.?**

Respondents indicated that education and training on coercive control should be delivered to a broad range of professions, including those who do not necessarily encounter domestic and family violence victim-survivors or perpetrators on a regular basis.

- Frontline health workers
  - Alcohol and drug services
  - Mental health services
- Psychologists
- Child protection workers
- Social workers
- General practitioners
- Dentists
- Teachers



- Service SA front line workers
- Housing services
- Financial counsellors

Suggested topics:

- What are coercive control signs and behaviours and how to identify them
  - A pattern of behaviour rather than a stand-alone incident
  - Understanding and awareness of tactics used to manipulate victim/survivors and responders (using case studies)
- Understanding of the legislation that criminalises coercive control
  - Why we need the laws
- How to respond when abuse is suspected (what processes to establish)
  - Where to refer to services for help for both victim-survivors and perpetrators, not just for personal support, but also for practical support such as accommodation and financial assistance and free legal services
  - Access to any funding available for support for victim-survivors such as the Escaping Domestic Violence Grants and other supports through Victims of Crime.
  - Reporting obligations and processes
  - Appropriate documentation to assist any future police investigation
- How to work with victim-survivors and perpetrators, including:
  - using a trauma informed response
  - understanding of the issues across various communities - people with a disability, people from regional, metropolitan, and remote communities, and people from Aboriginal, culturally and linguistically diverse and LGBTIQ+ communities
  - how to work with young perpetrators aged 18 to 25, who often have complex problems
- Avoiding unintended consequences of the new offences, e.g. where the perpetrator identifies the victim-survivors as the perpetrator
- Health promotion focus, reflecting the right to be safe and well.

One respondent reported that education and training about coercive control within Aboriginal communities should be based on localised understanding and local languages, noting that not one 'size' of training will fit all. Such training should include:

- uplifting stories of resistance to violence – a tool for safety used by women on the APY Lands
- a focus on historical acts of violence (embedded in story telling)
- understanding acts of violence in all their forms.

As with training and education for the justice sector, respondents also noted that training for other professionals should be developed with experts in domestic and family violence and people with lived experience. This should include experiences of vulnerable and diverse groups, including older people and people with disability.

## Question 8: What types of coercive control services should be prioritised?

The responses to this question generally referred to broader domestic and family violence services rather than coercive control alone. It was noted that increased awareness of coercive control will bring an increase in service referrals, particularly if it is criminalised.

One respondent suggested that services should be mapped to identify duplication and gaps.

Two respondents identified perpetrator services as a priority, to ensure men are engaged in programs at the earliest presentation.

Identified service priorities for victim-survivors included:

- Legal support
  - Timely and accurate advice about legal rights, child support, property settlement, debts and care arrangements for children
  - Specialist women's legal services with expertise and insight into systems abuse as a common tactic used by perpetrators
  - Pre and post court appearance supports for victim-survivors to promote safety and well-being and increase the chance they will benefit from court process (for example, the Women's Legal Service SA and Women's Domestic Violence Court Assistance Service)
- Psychological support
- Financial support to assist victims in cases of financial abuse, including financial and budgeting assistance and civil or family court action
- Resources and pathways for women wishing to leave abusive relationships, or safely remain home with their children
- Recovery services to re-build confidence and self-esteem of victim-survivors
  - victims of crime counselling
  - positive peer support to build healthy relationships and support networks
  - holistic trauma informed services to victim-survivors and defendants in a health care setting (for example, the Nargneit Birrang Framework: Aboriginal Holistic Healing Framework for Family Violence).
- Early intervention supports and services

Most respondents also noted the need for accessible and inclusive services for victim-survivors including:

- Place-based services particularly supporting victim-survivors in regional, rural and remote communities
- Services accessible to people without internet access or with limited digital literacy
- Appropriate services for diverse, vulnerable and marginalised individuals and groups:
  - culturally and linguistically diverse communities
  - LGBTIQ+ groups
  - persons living with disability, including cognitive impairment
  - recognising children as victim-survivors in their own right.

## Question 9: Are there any gaps in the services currently available to victim-survivor of coercive control?

Responses to this question were similar to the service priorities identified in Question 8, with most having a broader domestic and family violence focus.

In line with the service priorities noted in Question 8, gaps were identified in:

- Services for diverse, vulnerable, marginalised communities including Aboriginal peoples, LGBTIQ+ community, culturally and linguistically diverse, migrant and refugee communities (particularly for women on Temporary Protection Visas), people with disability (including cognitive impairment), children and young people, older people, and those in regional, rural and remote settings.
- One respondent specifically noted that many institutions are not safe for LGBTIQ+ people to access. Many existing services prioritise people who are heterosexual and not transgender or gender diverse, and fail to account for domestic and family violence in same sex relationships. This response suggested that all services engaged in service provision should undergo LGBTIQ+ inclusion training, most notably training based on Rainbow Tick, a national quality framework that helps health and human services organisations show they are safe, inclusive and affirming services and employers. In South Australia, SHINE SA delivers HOW2 LGBTIQ Inclusion Training, based on Rainbow Tick Accreditation.
- Services for male/victim-survivors. It was reported that male victims are discriminated against in policy and service provision, stating that government funded services are often suspicious of male perpetrators claiming to be victims. Generic support is available, but is often unaware of unique issues faced by male victims (for example, male victims are often not believed, their experiences are minimised, and they are blamed for the abuse).
- Psychological services: there are currently long waiting lists for psychological services
- Pre and post court appearance support for victim-survivors, acknowledging that court appearances can be traumatic
- Recovery services: wrap around supports, including mental health services to victim-survivors to rebuild their lives and address issues used to cope with domestic and family violence such as alcohol and drug use, gambling and self-harm. It was noted that the Child and Adolescent Mental Health Service is geared to more complex mental health issues and is not often accessible for victim-survivors and children.

*“People experiencing family and domestic violence are less likely to leave abusive relationships when there is insufficient psychological support to make the decision, or without connection to safe, local services tailored to their individual need. This creates a revolving door of victims leaving and being forced to return to violent relationships, due to a lack of emotional, psychological, and practical resources.”*

Additional comments reflected concerns about the type and scope of service delivery, with calls for:

- Collaborative services for victim-survivors and corresponding perpetrator interventions in a solely funded collaborative model, to maximise information sharing, risk assessment and safety planning

- Responses outside of the criminal justice system. One respondent recommended the establishment of a mediation service which provides conciliation and counselling for the victim-survivor and perpetrator – particularly for financial abuse. As the perpetrators of financial abuse against older people are often family members, many victims may not wish to report the abuse to avoid causing trouble for the family member in question. It is likely a victim-survivor of coercive control may be more willing to engage with mediation than one which escalates the issue to a criminal offence for perpetrator.

One respondent also reported a specific gap in experienced domestic and family violence support at police front counters. This response recommended trained, designated officers be present at selected police front counters to respond to victim-survivor reports and ensure a more consistent, specialist response. It was suggested this initiative should include a specific interview room for privacy, which is critical to successfully responding to victim-survivor experiences.

### **Question 10: Are there any current specialist and mainstream service providers that could improve and / or tailor their current services for victim-survivors of coercive control?**

Responses to this question generally indicated that existing specialist and mainstream services could improve and/or tailor their current services for victim-survivors of coercive control, with adequate supports.

One respondent noted that responses to questions about service gaps and potential capability depend upon how coercive control is defined and the strength of the law. If it remains within a domestic and family violence context, then strengthening and resourcing domestic and family violence supports would be appropriate.

Another respondent commented that there is always opportunity for improvements, but this requires time, labour and resources, which are rare in the community service sector. The respondent also noted that there was a role for government in supporting and providing opportunities for enhanced collaboration with the sectors, to minimise gaps and strengthen partnerships.

Respondents specifically identified the following services that could possibly tailor their current operations to support victim-survivors of coercive control:

- Women's Legal Service Advice
- Women's Safety Services SA
- Women's Domestic Violence Court Assistance Service
- Relationships Australia South Australia
- Aboriginal community controlled family violence legal prevention units
- Aboriginal community controlled domestic and family violence services
- Financial services sector
- Adult Safeguarding Unit
- Aged Rights Advocacy Service
- Legal Services Commission
- Victims of Crime SA
- Individual disability advocacy services.

One respondent reported there are significant opportunities for all service providers to build upon the coercive control evidence base and improve current service offerings. It recommended increased funding to specialist women's and culturally specific services that meet the standards set by the Australian Women Against Violence Alliance which stipulate:

- A rights-based approach
- Advancing gender equality and women's empowerment
- A client-centred approach
- Women's safety is central
- Perpetrator accountability
- Accessible, culturally appropriate and sensitive services.

### Question 11: What types of perpetrator services should be prioritised?

Most submissions responding to this question noted a critical need to expand the availability of Men's Behaviour Change Programs, and ensure they have the capacity to implement risk assessment and risk management processes. It was noted that the 2016 Victorian Royal Commission into Family Violence recommended substantial growth in the development, evaluation and delivery of perpetrator programs.

One respondent also stressed the need to evaluate perpetrator programs for effectiveness.

Respondents specified the following perpetrator services as priorities:

- Specialist perpetrator intervention services for vulnerable marginalised and diverse communities, including Aboriginal peoples, LGBTIQ+, culturally and linguistically diverse / refugee / migrant, young men, and those in rural, regional and remote locations. One respondent highlighted a need for culturally specific prevention services in Aboriginal communities that draw on community knowledge and Elders to resist drivers of violence.
- Evidence based services that adhere to the principles of the National Outcome Standards for Perpetrator Interventions. These principles include:
  - Women and children's safety is the core priority of the service
  - Perpetrators get the right interventions at the right time
  - Opportunities for early interventions prior to a criminal justice response
  - Services are connected to the specialist women's led service sector
- Men's Referral Service – expanding the service to cover the anticipated increase in number of calls following the commencement of coercive control legislation
- Partner contact services attached to Men's Behaviour Change Programs that focus on increasing the safety of women and children
- Programs aimed specifically at coercive control perpetrators who do not use physical violence, noting that entry into most Men's Behaviour Change Programs is triggered by the use of physical violence
- A fully resourced and formalised police outreach service, to directly connect men using violence to the Men's Referral Service. The service would make telephone contact with men identified as perpetrators of family violence within 48 hours of police response



- Crisis housing for perpetrators, to help keep victim-survivors safe in their homes, as part of a wider suite of perpetrator interventions. (e.g. Men's Accommodation and Counselling Service and Communicare's Breathing Space Intervention in Western Australia).

*"Recidivism can be influenced not only by policing, sentencing practices and parole monitoring, but also by the quality of interactions and integration between offenders and the community-based services."*

## Question 12: Are there any gaps in the services currently available to perpetrators of coercive control?

Respondents consistently reported that South Australia does not have sufficient perpetrator services, with significant gaps for perpetrators of all forms of violence and control. One respondent noted that current programs have long waiting lists, with a wait of up to six months to enter a behaviour change program.

Respondents reported gaps in:

- Early intervention responses to keep perpetrators in view and prevent escalation of violence
- Age-appropriate young perpetrator programs (18 to 25 years). It was noted the Men's services sector need specialised training on working with this cohort, which often have complex problems
- Services for men who use coercive control without violence
- Services provided to fathers, addressing:
  - the controlling and violent behaviours within a family context
  - impacts on children
  - positive role-modelling
  - co-parenting
- Psychological services
- Housing and homelessness services, particularly affordable, accessible, culturally safe accommodation solutions
- Specialist services and programs for marginalised, diverse and vulnerable groups such as LGBTQIA+, culturally and linguistically diverse and migrant / refugee communities, and Aboriginal communities
- Programs for men who come forward to seek help outside of the criminal justice system, including opportunities for men to examine their use of violence in relationships in non-stigmatising processes that still emphasise accountability, responsibility, and women and children's safety
- Funding to support families and children of persons enrolled in a perpetrator program. In other jurisdictions, affected family member safety work is a foundation of Men's Behaviour Change Program practice standards, and could be used as a template for South Australia. The aim is to ensure women and children are safe and that safety and risk is always assessed and monitored.

One respondent commented that the current system is fragmented, and most programs responding to domestic and family violence do not work with perpetrators. The respondent called for an integrated Family Violence System, proposing:

- State-wide intake for perpetrators in South Australia and a system to track men from point of referral through to engagement and program completion
- Increased resourcing for Men's Behaviour change programs that are connected to where men are already engaging with services
- Development of statewide Standards and quality accreditation processes for all Men's Behaviour Change programs
- Enhanced data collection and information sharing to understand patterns of behaviour and risk.

### **Question 13: Are there any current specialist and mainstream service providers that could improve and / or tailor their current services for perpetrators of coercive control?**

There were limited responses to this question that specified a current service. Responses included:

- One respondent supported the expansion of existing perpetrator counselling and treatment programs aimed at coercive control perpetrators, noting that such programs should take into consideration that perpetrators of coercive control span a continuum from 'malevolent sociopaths to overeager family members seeking to protect a person with cognitive impairment and who are unaware of their controlling behaviour'.
- Two respondents called for the Don't Become That Man program to be re-funded.
- One respondent nominated all perpetrator service providers and agencies across intervention systems as identified in the SA DFV Perpetrator Intervention Systems Map (Upton-Davis & Chung 2020), particularly those working within the Family Safety Framework and Multi-agency Protection Service. It was also suggested that the Centre for Restorative Justice could formulate and pilot the implementation of a trauma informed and victim survivor led restorative conference program.
- The Court Administration Authority's Abuse Prevention Program – with more detailed case management, waitlist support and accountability for participants.
- One respondent recommended funding to develop and deliver a new suite of training packages on coercive control to the perpetrator workforce.

### **Question 14: Is there anything else that should be considered as part of implementing a criminal offence relating to coercive control?**

*"Criminalisation of coercive control must be considered as a package reform, to which extensive community and stakeholder consultation, improved sector funding of specialist services, increased awareness measures, whole-of-system training, improved community education and the establishment of national definitions will work together to help put a full stop to sexual, domestic, and family violence."*

*“...this is an uncomfortable conversation that everyone needs to have within their families, friends, local community and a wider audience where possible.”*

Comments in response to this question covered a range of issues and concerns. General comments made under other questions are also included in this section.

### Development of legislation

- There should be intensive community consultation prior to the formalisation of any offence and its implementation. Victim-survivors should be given the opportunity to engage in a truly collaborative manner with government to develop an appropriate legal response in relation to coercive control.
- How coercive control is defined will be critical to the effectiveness of the law and preventing harm due to a lack of safety or wellbeing:
  - It is important to clarify that coercive control is not just inflicted by an ‘intimate partner’ but can also be committed by family members, friends, people providing a service, and anyone in any form of relationship with the victim. Legislation introduced in 2021 was limited to intimate partners and does not address the vulnerability of people with disabilities to this form of abuse from a wider group of people (family members, service providers and community agencies).
- Several respondents commented that it is premature to introduce coercive control as a criminal offence, particularly prior to an agreement on national principles, which may affect the ability for national recognition of coercive control offences in South Australia.
- One respondent recommended a national approach, but if a standalone offence is introduced, there should be:
  - Broad consultation with family relationships services and other family violence practitioners, as well as with law enforcement and other government agencies to ensure resulting offences are capable of effective operationalisation and can be implemented in a way that supports, not undermines, therapeutic work with clients
  - Nationally recognised guidelines for police, prosecutors, and judicial officers as to what kind of evidence is probative of coercive control, and what constitutes a sufficient weight of evidence to clear the threshold of beyond reasonable doubt
  - Ongoing (and adequately resourced) monitoring and evaluation of the offences.
- Consideration should be given to the creation of a Domestic Abuse Act separate from the *Criminal Law Consolidation Act 1935*. A separate piece of legislation emphasises the unique issues that arise in domestic violence as distinct from other offences because they take place in a “domestic setting”. Separate legislation allows for the tailoring of offences and penalties to the circumstances of domestic abuse and for the creation of unique offences. A separate Act can have a potential psychological impact on those who enforce it because it creates a different policing sphere with different considerations.

## Implementation

- Adequate funding needs to be made available to support the implementation of a criminal offence for coercive control, as it requires a significant change in culture, understanding and ways of working for government agencies, community services, legal providers and institutions and the broader community. Without adequate funding being provided to enable training, education and cultural change there is a substantial risk that an offence will be on the books but will be rarely used and ineffective.
- Statements from psychologists must be admissible as an explanatory supplement to victims' evidence. This provides insight into the context of the behaviour and may also help to explain retaliatory or compliant behaviour of victims who are trying to minimise the effects of the coercive controlling behaviour.

## Tailored responses to specific groups and communities

- *Persons living with disability:* In implementing coercive control legislation, justice and domestic and family violence sector responses must be tailored to needs of women and girls with disability and address existing barriers they face. They have fewer pathways with first responders, including police, courts and domestic and family violence services who lack specialised knowledge in how to support women with disability. Making coercive control offences effective is reliant on victims being willing, and in a position, to engage with police and open to the potential of criminal charges. Marginalised groups (particularly women and girls with disability) may be reluctant to engage with police for fear of not being believed, fear of discrimination (ableism and sexism), fear that police intervention will escalate abuse, fear of child protection involvement and that children will be taken away.
- *Aboriginal communities:* Services for Aboriginal peoples should emphasise self-determination, innovation, localised responses and knowledge. Any decision making that includes a criminal justice response needs to include voice and agency of Anangu on the APY lands.
- *Male victims:* A significant proportion of family violence victims including coercive control are male. Many never report their victimisation or seek help, with many barriers to disclosing abuse. These include not knowing how, where to seek help, feelings that they won't be believed or understood as victims, and fear they will be falsely arrested. There are also feelings of denial, disbelief, shame and embarrassment at being unable to protect themselves, of being called weak and being ridiculed.

## Managing unintended consequences

- To ensure legislative change does not result in further overrepresentation of Aboriginal people in prison, one respondent recommended:
  - the ongoing reform of police practices and procedures, as well as police culture, together with a greater commitment to the development of collaborative projects (such as justice reform initiatives), to address the over-incarceration of South Australian Aboriginal people while still supporting victim-survivors
  - A consultation process should be conducted with Aboriginal groups in South Australia to inform the legislative changes and implementation phase.

## Risk assessment and data collection

- Risk assessment tools should be upgraded to reflect coercive control perpetrator behaviour. Tools currently in use often miss previous history, disability, pregnancy or new child and harm to pets.
- There should be mandatory, uniform, statewide domestic violence Routine Screening in all mainstream services, including alcohol and drugs, mental health, early childhood, hospital emergency departments and women's health centres.
- Data should be collected about domestic and family violence in LGBTIQ+ communities. The Department of Human Services recently published the 'Data Collection and Gender Guideline: Data collection and working with the LGBTIQ+ community'. This provides guidance to agencies on how to respectfully collect data about gender identity and sex in a manner inclusive of transgender and gender diverse people. One respondent strongly urged the South Australian Government to implement this guideline across government, and particularly in relation to domestic and family violence.
- Consideration should be given to the creation of a multi-agency risk assessment framework, similar to MARAM in Victoria, which requires universal and specialist services to assess for domestic and family violence and associated risk. This ensures that no matter which entry point, all services are effectively identifying, assessing and managing domestic and family violence risk.

## Evaluation

- One respondent commented it is also important to consider how South Australia will measure the impact and efficacy of coercive control criminal laws in preventing escalating violence against women and girls. Where coercive control offences have been introduced in other international and Australian jurisdictions, the only measure of success has been whether the laws have been used. Data is gathered from reports of domestic abuse, arrests for coercive control, charges laid, and successful prosecutions. The respondent proposed that efficacy must be considered in terms that include the impact of the new offences on:
  - Victim survivor safety, recovery and wellbeing
  - Victim survivor experience of the court process and the justice system
  - Perpetrator accountability, reoffending and behaviour change
  - Misidentification and criminalisation of victim survivors
  - Criminalisation of marginalised population groups.



## List of submissions

The Attorney-General's Department received 19 submissions representing the following organisations, services, advocacy groups and government authorities:

- The Law Society of South Australia
- Australian Psychological Society
- Commissioner for Victims' Rights
- Embolden SA Inc
- Full Stop Australia
- Legal Services Commission
- No to Violence
- NPY Women's Council
- OARS Community Transitions
- Relationships Australia SA
- South Australian Financial Counselling Association
- South Australian Rainbow Advocacy Alliance Inc
- SHINE SA
- Women's Legal Services SA
- Women's and Children's Health Network
- One in Three Campaign
- Royal Commission Response Unit, Attorney-General's Department
- Office of the Public Advocate
- Uniting Communities

A further three submissions were received from individuals, including one academic and one person with lived experience of coercive control.

Released by AGD, under the FOI Act 1991 (SA)

Our reference: DOC/22/129239  
Contact: [REDACTED]  
Telephone: [REDACTED]  
Date: 1 April 2022

Ms Caroline Mealor  
Chief Executive  
Attorney-General's Department  
10 Franklin Street  
ADELAIDE SA 5000

[REDACTED]  
Dear Ms Mealor,

**Implementation Considerations Should Coercive Control be Criminalised in South Australia**

I refer to the Discussion Paper emailed to me on 2 February 2022.

The Legal Services Commission is this State's largest criminal law defence agency as well as its largest legal assistance services provider.

We provide legal advice and court based duty lawyer services in criminal law to all South Australians and grants of aid for legal representation to those who meet our means and merit guidelines.

We provide family law services including court ordered family dispute resolution and a court-based Family Advocacy and Support Service which includes assistance for victims of domestic and family violence in family law matters.

We deliver a number of legal assistance programs for victims of domestic and family violence. These services include the Women's Domestic Violence Court Assistance Service at the Magistrates Court.

I have consulted with relevant, senior legal officers across the Legal Services Commission regarding the questions raised in your Discussion Paper. Our response follows this letter. We have focussed on the issues relevant to the work of the Legal Services Commission.

Thank you for the opportunity to respond to the Discussion Paper.

Yours sincerely,

[REDACTED]  
  
Gabrielle Z Canny  
Director  
Legal Services Commission

## Response to Discussion Paper: Implementation Considerations Should Coercive Control be Criminalised in South Australia

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### Key Points

If coercive control is criminalised in South Australia, the Legal Services Commission submits that the key considerations for implementation should include:

- an extensive education program for the community, the police, the judiciary, lawyers, and workers in the sector,
- the capacity to achieve timely justice for victims, and
- the development of additional and alternative avenues to justice other than criminal prosecution. These potential alternatives are discussed later in our submission.

### Separate Legislation

We submit that, prior to criminalisation, consideration should be given to the creation of a *Domestic Abuse Act* that is separate from the South Australian *Criminal Consolidation Act 1935*. A separate piece of legislation emphasizes the unique issues that arise in domestic violence as distinct from other offences because they take place in a “domestic setting”. Separate legislation allows for the tailoring of offences and penalties to the circumstances of domestic abuse and for the creation of unique offences. A separate Act can have a potential psychological impact on those who enforce it because it creates a different policing sphere with different considerations.

### Criminalising Coercive Control?

*Discussion Paper, Questions 3,4 and 5*

The Legal Services Commission broadly supports the criminalisation of coercive control in South Australia. We are, however, aware that other jurisdictions have experienced difficulties in drafting and enforcing an effective offence.

One of the primary concerns in the legal profession, around the creation of an offence of coercive control, has been the question of proof and more broadly fairness to the defendant.<sup>1</sup> Current prosecution practice tends to rely on single acts of violence to constitute domestic abuse and either physical evidence of that abuse, or the corroboration of witnesses. Further, lack of understanding about the nature of coercive control has sometimes led to the victim being mistaken by police for the perpetrator.<sup>2</sup>

At present, South Australian police can use Intervention Orders to address the risk of continued mental harm caused by coercive behaviour.<sup>3</sup> Breach of the Order then causes the perpetrator to be brought before the courts. Intervention Orders can be specifically deemed to be orders to prevent domestic abuse.<sup>4</sup> Victim impact statements can also refer to the impact of coercive control.<sup>5</sup>

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<sup>1</sup> K Fitzgibbon et al, *Australia is not ready to criminalise coercive control — here's why* (theconversation.com), *The Conversation*, 1 October, 2020 and Charlotte Bishop, *Why it's so hard to prosecute cases of coercive or controlling behaviour* (theconversation.com), *The Conversation*, 31 Oct 2013

<sup>2</sup> H Gleeson, *Police are still misjudging domestic violence and victims are suffering the consequences*, *ABC News*, 31 March, 2022, [https://www.abc.net.au/news/2022-03-31/police-misidentifying-domestic-violence-victims-perpetrators/100913268?utm\\_campaign=abc\\_news\\_web&utm\\_content=mail&utm\\_medium=content\\_shared&utm\\_source=abc\\_news\\_web](https://www.abc.net.au/news/2022-03-31/police-misidentifying-domestic-violence-victims-perpetrators/100913268?utm_campaign=abc_news_web&utm_content=mail&utm_medium=content_shared&utm_source=abc_news_web)

<sup>3</sup> Section 10(1)(b), *Intervention Orders (Prevention of Abuse) Act 2009* | South Australian Legislation

<sup>4</sup> Section 15A, *Intervention Orders (Prevention of Abuse) Act 2009* | South Australian Legislation

<sup>5</sup> *Sentencing Act 2017* | South Australian Legislation

An offence of coercive control needs to be drafted more broadly. In other legal areas, prosecutions under the principle of engaging in a criminal 'course of conduct' have been successful and are often commenced in white collar prosecutions under corporate, workplace and consumer laws.<sup>6</sup>

### **Scottish Model**

*Discussion Paper, Questions 5, 8, 9 and 12*

We submit that any legislation to criminalise coercive control needs to be very carefully drafted and provide considerable detail as to the nature of the offence. The Scottish *Domestic Abuse (Scotland) Act 2018*<sup>7</sup> is very instructive and an excellent example of effective legislative drafting.

The legislation utilises a 'course of conduct' model (engaging in a course of abusive behaviour) and uses an appropriate application of the reasonable person test together with consideration of the individual victim's circumstances.

"The test would be met where the course of behaviour was such that a reasonable person would consider the behaviour likely to cause harm to that particular individual, taking account of their particular characteristics, irrespective of whether the behaviour in question would be likely to cause harm to a "reasonable person".<sup>8</sup>

The offence turns on whether the behaviour would be likely to cause harm to the individual victim and, importantly, there is no need for the Prosecution to prove that the harm has actually been committed. The Defence can rebut the allegations by establishing that the course of conduct was 'reasonable' in the particular circumstances of the case.

Another benefit of this legislation is that "abusive behaviour" is extensively and carefully defined.

It is particularly worth noting that the Scottish legislature has chosen to enact a separate piece of legislation for domestic abuse rather than trying to fit new offences within existing, general criminal law statutes. A separate Act allows laws to be specifically tailored to the circumstances around victims and perpetrators in domestic and family abuse.

The only restriction in the Scottish Act is that the definition of the perpetrator is limited to the domestic partner or former domestic partner of the victim. We submit that a broader definition should be considered in South Australia, extending to Indigenous kinship roles and other kinds of personal relationships.

### **Alternative and Additional Avenues to Criminalisation**

*Discussion Paper, Questions 8, 9 and 10*

Criminalising coercive control, as with other forms of domestic violence, requires the victim and offender to participate in the adversarial criminal justice system. Giving evidence in court can be stressful for victims as they are required to recall incidents of their abuse. They are then cross-examined by the Defence on the veracity of their recollection.

A further difficulty with the prosecution path is that it may take some time for a prosecution to reach the courts. In coercive control, as with other forms of domestic violence, quick action is the most effective action for the victim.

The creation of an offence of coercive control would benefit the victim, however, by removing the need for the victim to take the perpetrator to court and leaving enforcement to the police and the courts. The victim is then spared the perceived responsibility for taking the action.

In some family, community and cultural contexts, victims are pressured not to pursue prosecution of the offender or are afraid of the consequences of doing so. Other victims do not necessarily wish

<sup>6</sup> *Fair Work Ombudsman v Construction, Forestry, Maritime, Mining and Energy Union* [2019] FCA, p. 1942

<sup>7</sup> *Domestic Abuse (Scotland) Act 2018 - Explanatory Notes* ([legislation.gov.uk](https://legislation.gov.uk))

<sup>8</sup> *IBID.*

to completely sever their link with the perpetrator. In such situations, the abuse is likely to continue.<sup>9</sup>

Some Australian indigenous groups are strongly opposed to the criminalisation of coercive control for cultural and other reasons, preferring culturally appropriate education and better support services such as housing and in-community social support.<sup>10</sup>

In addition to criminal sanctions in any proposed legislation, South Australian courts could be empowered to use civil law remedies such as freezing orders over money and property (Mareva orders), orders against banks and other lenders to reverse or cancel transactions made under duress, orders against internet service providers to compel the removal of tracking apps and other software, and orders against relevant government departments regarding the payment of social security benefits.

The Commonwealth *Family Law Act 1975* and the Commonwealth *Online Safety Act 2021* provide examples of effective civil powers and sanctions in this regard.

### **Role of Community Legal Education**

*Discussion Paper, Questions 1, 2, 6 and 7*

The Legal Services Commission has been providing community legal education and information for more than forty years. We value and understand the importance of effective community communication. Our experience extends to in-person and online service provision, as well as film, media, and interactive resources. As noted in your paper, we have been funded to develop a community awareness program around coercive control.

We cannot over emphasise the importance of a strong education campaign, preferably commencing before the proclamation of any new legislation. Front-line service providers, police in particular, need to have a sound grasp of the elements of the offence and the options available to victims. The judiciary will also need training on the harm caused by behaviours that constitute coercive control.

Community education needs to have a wide reach through a variety of forms of media as well as through trusted service providers including women's shelters and similar support services, doctors, social workers, CWA, sporting clubs, churches, local councils, and other community organisations. It is imperative that any community education program reach and be designed for CALD and indigenous communities.<sup>11</sup>

### **Future Services**

*Discussion Paper, Question 14*

Coercive control is not only a problem between domestic partners. Other groups are also seriously affected by coercive control, in particular elderly parents abused by children or disabled persons by carers, often in order to access financial assets<sup>12</sup>. Once again, these groups can be reluctant to initiate any action against the perpetrator as they do not wish to entirely undermine personal relationships. Outcomes in coercive control need to take these very vulnerable groups into account.

LSC Reference: DOC/22/129244

<sup>9</sup> Kelle Scott, *Why victim-survivors don't report domestic violence* - ABC Everyday, ABC, 8 April 2021.

<sup>10</sup> Victorian Aboriginal Legal Service, *Addressing Coercive Control Without Criminalisation*, 2021, <https://www.vals.org.au/wp-content/uploads/2022/01/Addressing-Coercive-Control-Without-Criminalisation-Avoiding-Blunt-Tools-that-Fail-Victim-Survivors.pdf>  
See also: H Gleeson, *Police are still misjudging domestic violence and victims are suffering the consequences*, ABC News, 31 March, 2022, [https://www.abc.net.au/news/2022-03-31/police-misidentifying-domestic-violence-victims-perpetrators/100913268?utm\\_campaign=abc\\_news\\_web&utm\\_content=mail&utm\\_medium=content\\_shared&utm\\_source=abc\\_news\\_web](https://www.abc.net.au/news/2022-03-31/police-misidentifying-domestic-violence-victims-perpetrators/100913268?utm_campaign=abc_news_web&utm_content=mail&utm_medium=content_shared&utm_source=abc_news_web)

<sup>11</sup> H Gleeson, *Police are still misjudging domestic violence and victims are suffering the consequences*, ABC News, 31 March, 2022, [https://www.abc.net.au/news/2022-03-31/police-misidentifying-domestic-violence-victims-perpetrators/100913268?utm\\_campaign=abc\\_news\\_web&utm\\_content=mail&utm\\_medium=content\\_shared&utm\\_source=abc\\_news\\_web](https://www.abc.net.au/news/2022-03-31/police-misidentifying-domestic-violence-victims-perpetrators/100913268?utm_campaign=abc_news_web&utm_content=mail&utm_medium=content_shared&utm_source=abc_news_web)

<sup>12</sup> National Seniors Australia, *Calling Out Coercive Control of Older People*, <https://nationalseniors.com.au/news/latest-in-health/calling-out-coercive-control-of-older-people>, 29 April 2021



# **Discussion Paper: Implementation of coercive control offences in South Australia**

Summary of submissions

April 2022

Released by AGD, under the FOI Act 1991 (SA)



Government of South Australia  
Attorney-General's Department

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## Introduction

The Discussion Paper: Implementation of coercive control offences in South Australia was released for public consultation on 2 February 2022, to obtain feedback on fourteen questions under the themes of awareness raising, education and training, services for victim-survivors and responses to perpetrators. The consultation period closed on 1 April 2022.

The Attorney-General's Department received 22 submissions from a broad range of agencies and organisations, including general support services for victim-survivors and perpetrators, legal assistance services, advocacy groups, an academic and interested individuals. A full list of respondents is provided in Appendix 1.

This report provides a summary of the feedback provided against each question as well as additional issues raised by respondents.

Released by AGD, under the FOI Act 1991 (SA)

## Question 1: What are the key messages that should be communicated about coercive control?

Most respondents were supportive of a strong community awareness campaign for coercive control in conjunction with the creation of a criminal offence. Respondents identified three key messages that should be communicated as part of any such campaign, discussed below.

### What is coercive control and what does it look like?

Respondents noted the need for the community to have a greater understanding of coercive control, to be able to recognise these behaviours and respond appropriately.

*"Awareness raising and community understanding of the nature of coercive control is fundamental to the successful implementation of any legislation."*

Important messages about the nature of coercive control included:

- It is a pattern of behaviour over time rather than a single incident
- It is a key component of domestic and family violence
- It is a significant issue in Australia and prevention and response is everyone's responsibility
- It presents in many forms beyond physical aggression, and the behaviours may change over time. It may include subtle behaviours, or behaviours that may not be obvious to an external party but have a coded meaning for victim-survivors. Some groups may also experience specific forms of coercive control, such as spiritual abuse for Aboriginal peoples, threats regarding immigration status for women on temporary visas, and denial of reproductive and sexual rights for persons living with disability
- It is gender-based violence, being experienced more by women and perpetrated by men
- It can occur in different types of relationships beyond intimate partners, for example, control over a parent or of a child, between extended family members or in non-familial caring relationships
- It affects both current and former relationships, often extending beyond separation
- Children are victims of coercive control and domestic and family violence in their own right when it is perpetrated in their families
- Some people or groups can be more vulnerable to experiencing coercive control including Aboriginal women and children, people with disability, pregnant women, women with children, and older people
- Victim-survivors should not be blamed or shamed for their experiences
- Not all victims-survivors may describe that they are being coerced
- Everyone has the right to live their life free of violence and to enjoy full human rights and autonomy.

## Impact of coercive control

A number of respondents felt it was important for awareness campaigns to communicate the serious impacts of coercive control on victim-survivors, to assist in the identification of this abuse and to highlight the importance of responding appropriately. Specifically, that coercive control:

- can be equally harmful to, and sometimes more harmful than, physical violence
- results in fear, isolation, loss of self-worth and dignity, loss of autonomy and loss of capacity for decision making
- can have a cumulative impact over time
- can have serious consequences for the health, emotional and psychological wellbeing of victim-survivors

*"Coercive control needs to be understood by what it takes away or how it makes you feel..."*

## Responding to coercive control

One respondent recommended any messaging about coercive control be delivered in stages, with the initial stage describing what it looks like and why it is wrong, and a second stage about how victim-survivors, perpetrators and family members can respond. This could include information about:

- What the law says about coercive control
- The role of the new offences in providing protection from abuse
- What you can do if you are a victim-survivor of coercive control. For example, support services and maintaining documentation (to assist in future prosecution)
- What you can do if you know, or are worried about, someone who might be a victim-survivor of coercive control
- If you feel you may be a perpetrating coercive control in your relationship(s), where you can talk to someone about this and what help is available.

Almost all respondents stressed the importance of messaging about coercive control that was representative of and tailored to:

- Aboriginal and Torres Strait Islander peoples and nations
- Culturally and linguistically diverse communities
- People living with disabilities
- LGBTQIA+ peoples
- Older persons
- Rural and regional communities

## Other considerations

Several submissions noted that National Principles on Addressing Coercive Control are currently being developed by the Meeting of Attorneys-General upon the recommendation of the House of Representatives Standing Committee on Social Policy and Legal Affairs report from its Inquiry into Family, Domestic and Sexual Violence (2021). National Principles will be able to inform a common language and framework for understanding key concepts relating to coercive control, which in turn can guide education, awareness and public communication initiatives.

To avoid confusion among individuals, agencies and communities, one respondent called for caution on the development and dissemination of public communication campaigns until a common definition of coercive control is agreed.



## Question 2: What are the best mediums to communicate information about coercive control to your community?

Respondents consistently reported that coercive control community awareness campaigns should include all forms of media and be available in multiple languages and formats to capture different cohorts: Specific suggestions were:

- Social media
- Television
- Radio, including community radio
- Digital platforms
- Bus stops
- Billboards
- Flyers and information available at pubs and events (e.g. music festivals, major sporting events)
- Community education delivered through community service organisations, sporting clubs, council groups and community centres
- Community speaking platforms for victim-survivors to share their lived experience

*"I have also found through my experience that just talking about your experience to others who are open to listening without judgement is a form of healing whilst also educating. My friends have heard my story so far and whilst they saw some behaviours ... whilst we were married, had no idea the depth of control that went on behind closed doors."*

- Dissemination of information (flyers, brochures, posters) through services and government agencies (health clinics, General Practitioners, legal support services, women's services)
- Mandatory respectful relationships programs in schools (Years 8 to 12), universities, workplaces, sporting clubs and community groups
- Age-appropriate discussions with younger children (prior to Year 8)
- Mediums specific to LGBTIQ+ South Australians such as:
  - TikTok
  - Grindr
  - Image based platforms like Instagram
  - Queer advocacy organisations like SARAA
  - Queer bars and venues
  - Community organisations like TransMasc SA, Drop in Care Centre, Queer Youth Drop In and Feast
  - Health services like SHINE SA and SAMESH
- Resources for community and business leaders
- Consider using arts and other cultural policy opportunities to promote survivor led stories
- Questionnaires that prompt increased understanding e.g. the Don't Become That Man Service questionnaire which asked the question "Are you aware of the signs" and had the reader consider several scenarios, culmination in recommending men contact the service if they had answered yes to any of the questions
- Accessible formats, including easy to read and plain English to ensure engagement with people living with disability, people of non-English speaking backgrounds, people with other literacy barriers.

Several submissions also reported the critical importance of direct consultation with victim-survivors and specific communities to determine the best ways to communicate information about coercive control.

#### **Other considerations**

One respondent requested consideration and preparation for the risk of adverse outcomes during an awareness campaign, such as escalation in the type and number of incidences of violence by perpetrators who are angered or threatened by messages.

### **Question 3: How is coercive control understood by you and more broadly within your community?**

Respondents generally reported their understanding of coercive control in terms of a range of controlling and manipulative behaviours used by perpetrators over time (a course of conduct) to control their partners and family members. Additional comments were:

- Coercive control is not widely understood by most of the community, with even greater lack of understanding by vulnerable groups such as women living with disability. One respondent noted that their members were generally unfamiliar with the term and initially unsure of its scope, but were able to recall experiences once definitions and examples were provided.
- Coercive control is usually carried out by someone in a relationship of trust with the victim, which adds to the lack of understanding that the actions are wrong.
- Coercive control encompasses psychological, physical, sexual, financial and emotional abuse, and controlling behaviours, defined as making a person subordinate and / or dependent by isolating them from their sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape, and regulating their everyday lives.

6(1) Personal affairs

## Other considerations

### *Definition of coercive control*

Eight submissions called for a clear definition of coercive control, with three supporting a national definition, to enable a shared understanding of the behaviour and appropriate responses. As noted, National Principles on Addressing Coercive Control are currently being developed by the Meeting of Attorneys-General (MAG 2021).

Specifically, respondents noted:

- terminology and definitions are important, and it should be clear and universal what the issue is
- any definition must reflect the unique and specific forms of abuse experienced by women and girls with disability
- a nuanced definition should be adopted that reflects the range of tactics a perpetrator may use in different contexts
- a definition must take into account that:
  - abuse is not limited to physical violence but inclusive of all forms of aggression where there is a pattern of behaviour characterised by the use of force (name calling, threats, public denigration) and / or other controlling aspects (financial abuse, monitoring and surveillance) of a persistent and an emotionally abusive nature
  - the impact of the abuse on the victim-survivor (fear, isolation, loss of self-worth and dignity, loss of autonomy and capacity for decision making)
  - the intention or motivation behind the behaviour on the part of the perpetrator (subjugation, physical coercion, isolation, degradation, intimidation)
  - types of behaviour may change over time and vary in modality (e.g. in person vs online), frequency, and severity
  - current and former relationships as coercive control may extend beyond separation

One respondent recommended consideration of the Scottish Domestic Abuse Act, which uses a course of conduct model and extensively defines abusive behaviour. The respondent was supportive of a broader definition beyond domestic partner or former partner, including Aboriginal kinship roles and other kinds of personal relationships.

Another respondent expressed concern about a prescribed understanding of coercive control, arguing that it does not have a universal context or set behaviour, particularly in relation to remote Aboriginal communities. For these communities, who are using their specific strengths and understandings for solutions and decision making in relation to domestic and family violence, the respondent reported that a universal prescribed response may contribute to ongoing oppression and systematic violence against Aboriginal women, children and communities.

## Question 4: If it were made an offence, what might this mean to you and the people around you?

The submissions outlined the potential for both positive and negative outcomes for victim-survivors should coercive control be made an offence, while others expressed doubts that it would have any significant impact.

### Potential benefits of making coercive control an offence:

- Recognises the seriousness of the behaviour and reinforces the understanding that we do not accept or tolerate it
- Recognises the importance of maintaining a person's right and capacity to prioritise their own safety and wellbeing
- Will allow victim-survivors to be heard and have their experiences validated
- Can make a positive difference to the wellbeing, mental health and sense of self-worth of victims and assist them in seeking appropriate and prompt help much earlier in a relationship
- Perpetrators will know that their behaviour is unlawful and that they can be held accountable through a jail sentence or other penalties
- Service provider staff will have clear guidelines and boundaries about the behaviour which will assist in supporting victim-survivors and guiding responses to perpetrators
- Provides an additional safeguarding measure for vulnerable people in South Australia, including people with cognitive impairment
- Access to enhanced legal, economic and other systemic protections and outcomes.

*"I believe if it were an offence the offender in my situation would have been charged and would have been forced to stop the behaviours, although if he chose to continue along the coercive control behaviours, I would have had more protection for my wellbeing and safety through police having the ability to apprehend the perpetrator."*

### Potential issues for a coercive control offence

- A coercive control offence may result in harmful unintended consequences for victims particularly those belonging to groups disproportionately represented in the criminal justice system, such as Aboriginal women and their communities, women with disabilities, LGBTIQ+ people, culturally and linguistically diverse communities (including migrant and refugee women) and women from lower socio-economic backgrounds.
- A coercive control offence may contribute to the growing incarceration and criminalisation of Aboriginal women through the misidentification of victims of long-term significant violence as primary aggressors, then being defendants on reciprocal intervention orders and being charged with assault at high rates. This is a particular concern in small communities where there is significant bias relating to race and gender and a general misunderstanding of broader patterns of domestic and family violence.

*"The risk of disproportionate criminalisation / incarceration of perpetrators from these groups, and compounding of cascading risk (e.g. loss of housing, child protection interventions, loss of income support) needs to be considered prior to criminalisation of coercive control and implementation of legislation."*

- An unintended consequence of a coercive control offence may be that violence escalates if perpetrators are held to account

*"It's unclear, but quite likely making coercive control and offence will mean more - not less - physical violence against the people around me. There's good reason to think charging and convicting those using coercive control will have little or no effect on reducing violence and may well escalate non-physical violence to physical violence - especially where these laws result in incarceration."*

- Potential for the offence to be used as a weapon by perpetrators, by accusing the victim-survivor of coercive control and involving them in potentially drawn-out legal matters. Legal system abuse is one of the ways perpetrators continue abuse after separation. For example, in the intervention order system, some perpetrators force a trial and then appeal the original decision.
- Difficulties in policing a coercive control offence:
  - Police first responders will not always have access to systems that look across time and will not have the ability to examine financial or technological records. Without proper training, Police may not have the expertise or the time to undertake appropriate enquiries, particularly in remote and regional areas.
  - Cultural barriers in policing domestic and family violence: whilst police have some training and general orders contain directions to provide a culturally safe response, community attitudes still reflect that there are cultural barriers in policing.
- It may be difficult for prosecutors to successfully establish an offence of coercive control. The prosecution of an offence presents a less rapid response, potentially requiring a higher standard of proof than current legislation (*Intervention Orders (Prevention of Abuse) Act 2009*). This has implications for victim-survivors who face the distressing experience of giving evidence, with a slim possibility of a meaningful result. A number of respondents noted collaborative research currently underway between Uniting Communities and UniSA, and funded by the Law Foundation of South Australia, may be helpful when considering coercive control legislation. The report: *Powerful Interventions: Improving the use and enforcement of Intervention Orders as a tool to address family and domestic violence in South Australia* is due to be published in June 2022. The research aims to clearly describe the existing legislation governing the issue, use and enforcement of intervention orders and identify potential barriers to the effectiveness of this legal framework in South Australia.
- The legal emphasis in criminalising coercive control does not recognise that some victims will not want to pursue criminal charges, but will want behavioural change, which may be achieved by alternative resolution methods such as restorative justice and counselling for partners.



- While strongly supporting criminalisation, one respondent noted that LGBTIQ+ communities will need additional, culturally appropriate support for the legislation to be used effectively in these communities. LGBTIQ+ persons are unlikely to report abuse unless they are supported to feel safe, trust they will be believed, will not face homophobia, and will be provided with appropriate responses.

### No impact

Three submissions were of the view there was little evidence to suggest criminalisation, in and of itself, will have the desired impact for victims in addressing the behaviours and lowering rates of coercive control. Specifically:

- new offences will only increase ability of criminal justice systems to respond if they correctly identify non-physical abuse
- In view of limited success elsewhere, it is essential there is:
  - a significant increase in available services to support women and other victims pre and post the legal process
  - a significant increase in perpetrator services at the earliest opportunity to engage men, regardless of criminal charges or conviction being recorded.

*"Is there any evidence that criminalising coercive control reduces the incidence of coercive control or physical violence in the community? ... What I do see is evidence that people are being arrested, prosecuted and convicted... But is it reasonable to assume convictions mean the laws are 'working' and reducing abusive behaviour?"*

It was also noted by one respondent that how the offence is defined and the supports and training to be rolled out as part of the implementation process for the offence, will determine the potential impact for victim survivors, perpetrators and the criminal justice system.

### Question 5: If you were concerned about the use of coercive control as an individual, or on behalf of someone else, what systems and services would you approach for support or advice?

Respondents reported a wide range of services and supports that could be approached by individuals concerned about the use of coercive control.

#### Victim-survivors

- Friends
- Lived experience advocacy and/or support groups
- Criminal Justice / legal assistance services
  - SA Police (including specialist domestic and family violence units)
  - Domestic Violence Disclosure Scheme
  - Women's Legal Service
  - Legal Services Commission
  - Women's Domestic Violence Court Assistance Service
  - Family Law Services

- Health services
  - Hospitals and emergency departments
  - Child and family health nurses
  - Mental Health
  - Alcohol and drug
  - Aboriginal controlled health services
  - Women's health services
- Specialist Domestic and Family Violence services
- Women's safety services
- South Australian Domestic Violence Crisis Line
  - Safe at Home services (assessment, safety management planning, home security audits and coordination of security upgrades)
- 1800 RESPECT support, counselling and referrals (24 hour hotline and web-based support)
- Other telephone support services like Lifeline and Kids Helpline
- Rebuild (Counselling for Victims of Crime) and Victims of Crime SA
- Family Relationship Centres
- Homeless services
- Schools
- Child Protection services
- Multicultural services
- Hairdressers and beauticians
- Animal shelters
- Workplace programs that can identify and respond and support women in the workplace experiencing coercive control
- Community services organisations, which are key entry points for social and material support for victims
- Adult Safeguarding Unit located in the Office for Ageing Well. The Adult Safeguarding Unit supports adults vulnerable to abuse including older people, Aboriginal people and people living with a disability.
- Aged Rights Advocacy Service for older people
- Six disability advocacy services in SA for younger people
- SACAT - as a last resort - the victim-survivor is protected by coming under the guardianship of a trusted individual or the Public Advocate.

## Perpetrators

- Specialist perpetrator referral and intervention services, including No to Violence Men's Referral Service and Brief Intervention Service (time limited, multi-session telephone support for men pre and post behaviour change who are currently on a waiting list for men's family support).

**Question 6: What education and training is needed to improve the justice sector's understanding of coercive control and detect, investigate and prosecute coercive control appropriately?**

*"Any law to criminalise coercive control will only be as effective as those who enforce, prosecute, and apply it. Improving these practices through education and training and embedding best practice and expertise in domestic and family violence and disability in the courts is as important as creating the new offence."*

*"...any evidence-based training should encourage critical, reflective awareness of the beliefs and subjectivities officers hold and the impact these have on the judgements they may make regarding victims and cases."*

Respondents were generally consistent in calling for justice sector education and training that is:

- evidence-based
- co-designed and delivered with victim-survivors
- trauma informed
- incorporates cultural considerations for Aboriginal peoples and culturally and linguistically diverse communities
- focused on vulnerable victim-survivors including older persons, and persons with disability
- delivered across all sectors of the justice system - police, prosecution and judiciary - including both criminal and civil jurisdictions
- provided on a regular and consistent basis, with refresher programs incorporating the latest evidence and best practice models.

A number of respondents called for compulsory domestic violence training for first responders, prosecutors, the judiciary and Magistrates Court staff. Most respondents provided broad suggestions, without specifying a particular branch of the justice sector.

Suggested topics for inclusion in training:

- How to recognise coercive control, including:
  - patterns of behaviour – moving from incident-based approach to an understanding of coercive control course of conduct (particularly for police)
  - impacts – isolation, fear, anxiety, harm to mental health, use of alcohol and other drugs, and impact on family relationships
  - identifying the predominant aggressor during domestic and family violence call outs
  - awareness of manipulative behaviour
  - myths and misconceptions about coercive control and how to counter them
  - in the broader context of sexual, domestic and family violence

- How to respond to a victim-survivor in a trauma informed manner
  - It was noted that victim-survivors may not respond in a manner that is deemed consistent with the stereotypical view of victims, to the extent that police may question survivor credibility. It is quite common for victims to develop maladaptive coping behaviours and may also be flat and emotionless in their retelling of incidents and / or they may have disjointed recollections, as a result of post-traumatic stress disorder.
- How to engage victim-survivors, including those from vulnerable or diverse groups:
  - awareness of cultural considerations for Aboriginal and culturally and linguistically diverse communities that might impact on the victim-survivor disclosing to police
  - understanding of what coercive control may mean for person with cognitive impairment or other disability
  - that actions do not re-victimise the victim-survivor and pressure or persuade a change in response
- How to identify and provide appropriate:
  - safety strategies for victim-survivors
  - referrals to support services
  - consequences for perpetrators to keep victims safe
- The role each agency plays in effectively addressing the issue (to ensure a coordinated and prompt safety response).

For police, it was suggested that training cover how to gather evidence for coercive control matters including:

- Initial investigation should comprise
  - Photographs of scene and injuries
  - Medical evidence of any injuries
  - Recording of emergency response call
  - Evidence from family or friends
- Specialist knowledge and interview skills to support gathering of evidence, including how to obtain statements from persons with cognitive impairment that do not disadvantage the victim-survivor.

One respondent suggested key questions to ask victim-survivors as part of the consultation process in developing training:

- What will be useful, respectful, and relevant immediate responses from the justice system?
- What steps can be implemented quickly to ensure the safety of victim-survivor and the safety of their children and other people of concern?
- What steps can be implemented quickly to ensure that the perpetrators stop using these forms of violence and abuse and are held accountable for causing the victim-survivor to experience fear and harm?
- What other relevant agencies could the justice system be liaising with for a comprehensive overview of the situation and to ensure the safety of victims/survivors, children and family members?
- What coercive control acts create fear (even if the acts may appear to be 'minimal' or 'not relevant' to issues relating to domestic and family violence)?

The following models were suggested for training programs in South Australia:

- Domestic Abuse (DA) Matters Scotland
- SafeLives UK / Police Scotland training program for law enforcement, which incorporates a 'Health Check', Train the Trainer course, Senior Leaders workshop and both intensive and on the job e-learning and face to face training for police officers and staff. The program is geared towards effecting mass behavioural change among the police force, training and deploying "Domestic Abuse Matters Champions" to lead change and support their colleagues (SafeLives 2020).

### **Question 7: What education and training is needed for organisations that work with victim-survivor and perpetrators of coercive control e.g. in health, housing, education etc.?**

Respondents indicated that education and training on coercive control should be delivered to a broad range of professions, including those who do not necessarily encounter domestic and family violence victim-survivors or perpetrators on a regular basis. They included:

- Frontline health workers
  - Alcohol and drug services
  - Mental health services
- Psychologists
- Child protection workers
- Social workers
- General practitioners
- Dentists
- Teachers
- Service SA front line workers
- Housing services
- Financial counsellors

Suggested topics for education and training included:

- What are coercive control signs and behaviours and how to identify them
  - A pattern of behaviour rather than a stand-alone incident
  - Understanding and awareness of tactics used to manipulate victim/survivors and responders (using case studies)
- Understanding of the legislation that criminalises coercive control
  - Why we need the laws
- How to respond when abuse is suspected (what processes to establish)
  - Where to refer to services for help for both victim-survivors and perpetrators, not just for personal support, but also for practical support such as accommodation and financial assistance and free legal services
  - Access to any funding available for support for victim-survivors such as the Escaping Domestic Violence Grants and other supports through Victims of Crime.
  - Reporting obligations and processes
  - Appropriate documentation to assist any future police investigation



- How to work with victim-survivors and perpetrators, including:
  - using a trauma informed response
  - understanding of the issues across various communities - people with a disability, people from regional, metropolitan, and remote communities, and people from Aboriginal, culturally and linguistically diverse and LGBTIQ+ communities
  - how to work with young perpetrators aged 18 to 25, who often have complex problems
- Avoiding unintended consequences of the new offences, e.g. where the perpetrator identifies the victim-survivors as the perpetrator
- Health promotion focus, reflecting the right to be safe and well.

One respondent reported that education and training about coercive control within Aboriginal communities should be based on localised understanding and local languages, noting that not one 'size' of training will fit all. Such training should include:

- uplifting stories of resistance to violence – a tool for safety used by women on the APY Lands
- a focus on historical acts of violence (embedded in story telling)
- understanding acts of violence in all their forms.

As with training and education for the justice sector, respondents also noted that training for other professionals should be developed with experts in domestic and family violence and people with lived experience. This should include experiences of vulnerable and diverse groups, including older people and people with disability.

## Question 8: What types of coercive control services should be prioritised?

The responses to this question generally referred to broader domestic and family violence services rather than coercive control alone. It was noted that increased awareness of coercive control will bring an increase in service referrals, particularly if it is criminalised.

One respondent suggested that services should be mapped to identify duplication and gaps.

Two respondents identified perpetrator services as a priority, to ensure men are engaged in programs at the earliest presentation.

Identified service priorities for victim-survivors included:

- Legal support
  - Timely and accurate advice about legal rights, child support, property settlement, debts and care arrangements for children
  - Specialist women's legal services with expertise and insight into systems abuse as a common tactic used by perpetrators
  - Pre and post court appearance supports for victim-survivors to promote safety and well-being and increase the chance they will benefit from court process (for example, the Women's Legal Service SA and Women's Domestic Violence Court Assistance Service)

- Psychological support
- Financial support to assist victims in cases of financial abuse, including financial and budgeting assistance and civil or family court action
- Resources and pathways for women wishing to leave abusive relationships, or safely remain home with their children
- Recovery services to re-build confidence and self-esteem of victim-survivors
  - victims of crime counselling
  - positive peer support to build healthy relationships and support networks
  - holistic trauma informed services to victim-survivors and defendants in a health care setting (for example, the Nargneit Birrang Framework: Aboriginal Holistic Healing Framework for Family Violence).
- Early intervention supports and services

Most respondents also noted the need for accessible and inclusive services for victim-survivors including:

- Place-based services particularly supporting victim-survivors in regional, rural and remote communities
- Services accessible to people without internet access or with limited digital literacy
- Appropriate services for diverse, vulnerable and marginalised individuals and groups:
  - culturally and linguistically diverse communities
  - LGBTIQ+ groups
  - persons living with disability, including cognitive impairment
  - recognising children as victim-survivors in their own right.

### **Question 9: Are there any gaps in the services currently available to victim-survivor of coercive control?**

Responses to this question were similar to the service priorities identified in Question 8, with most having a broader domestic and family violence focus.

In line with the service priorities noted in Question 8, gaps were identified in:

- Services for diverse, vulnerable, marginalised communities including Aboriginal peoples, LGBTIQ+ community, culturally and linguistically diverse, migrant and refugee communities (particularly for women on Temporary Protection Visas), people with disability (including cognitive impairment), children and young people, older people, and those in regional, rural and remote settings.
- One respondent specifically noted that many institutions are not safe for LGBTIQ+ people to access. Many existing services prioritise people who are heterosexual and not transgender or gender diverse, and fail to account for domestic and family violence in same sex relationships. This response suggested that all services engaged in service provision should undergo LGBTIQ+ inclusion training, most notably training based on Rainbow Tick, a national quality framework that helps health and human services organisations show they are safe, inclusive and affirming services and employers. In South Australia, SHINE SA delivers HOW2 LGBTIQ Inclusion Training, based on Rainbow Tick Accreditation.

- Services for male/victim-survivors. It was reported that male victims are discriminated against in policy and service provision, stating that government funded services are often suspicious of male perpetrators claiming to be victims. Generic support is available, but is often unaware of unique issues faced by male victims (for example, male victims are often not believed, their experiences are minimised, and they are blamed for the abuse).
- Psychological services: there are currently long waiting lists for psychological services
- Pre and post court appearance support for victim-survivors, acknowledging that court appearances can be traumatic
- Recovery services: wrap around supports, including mental health services to victim-survivors to rebuild their lives and address issues used to cope with domestic and family violence such as alcohol and drug use, gambling and self-harm. It was noted that the Child and Adolescent Mental Health Service is geared to more complex mental health issues and is not often accessible for victim-survivors and children.

*"People experiencing family and domestic violence are less likely to leave abusive relationships when there is insufficient psychological support to make the decision, or without connection to safe, local services tailored to their individual need. This creates a revolving door of victims leaving and being forced to return to violent relationships, due to a lack of emotional, psychological, and practical resources. "*

Additional comments reflected concerns about the type and scope of service delivery, with calls for:

- Collaborative services for victim-survivors and corresponding perpetrator interventions in a solely funded collaborative model, to maximise information sharing, risk assessment and safety planning
- Responses outside of the criminal justice system. One respondent recommended the establishment of a mediation service which provides conciliation and counselling for the victim-survivor and perpetrator – particularly for financial abuse. As the perpetrators of financial abuse against older people are often family members, many victims may not wish to report the abuse to avoid causing trouble for the family member in question. It is likely a victim-survivor of coercive control may be more willing to engage with mediation than one which escalates the issue to a criminal offence for perpetrator.

One respondent also reported a specific gap in experienced domestic and family violence support at police front counters. This response recommended trained, designated officers be present at selected police front counters to respond to victim-survivor reports and ensure a more consistent, specialist response. It was suggested this initiative should include a specific interview room for privacy, which is critical to successfully responding to victim-survivor experiences.

### **Question 10: Are there any current specialist and mainstream service providers that could improve and / or tailor their current services for victim-survivors of coercive control?**

Responses to this question generally indicated that existing specialist and mainstream services could improve and/or tailor their current services for victim-survivors of coercive control, with adequate supports.

One respondent noted that responses to questions about service gaps and potential capability depend upon how coercive control is defined and the strength of the law. If it remains within a domestic and family violence context, then strengthening and resourcing domestic and family violence supports would be appropriate.

Another respondent commented that there is always opportunity for improvements, but this requires time, labour and resources, which are rare in the community service sector. The respondent also noted that there was a role for government in supporting and providing opportunities for enhanced collaboration with the sectors, to minimise gaps and strengthen partnerships.

Respondents specifically identified the following services that could possibly tailor their current operations to support victim-survivors of coercive control:

- Women's Legal Service Advice
- Women's Safety Services SA
- Women's Domestic Violence Court Assistance Service
- Relationships Australia South Australia
- Aboriginal community controlled family violence legal prevention units
- Aboriginal community controlled domestic and family violence services
- Financial services sector
- Adult Safeguarding Unit
- Aged Rights Advocacy Service
- Legal Services Commission
- Victims of Crime SA
- Individual disability advocacy services.

One respondent reported there are significant opportunities for all service providers to build upon the coercive control evidence base and improve current service offerings. It recommended increased funding to specialist women's and culturally specific services that meet the standards set by the Australian Women Against Violence Alliance which stipulate:

- A rights-based approach
- Advancing gender equality and women's empowerment
- A client-centred approach
- Women's safety is central
- Perpetrator accountability
- Accessible, culturally appropriate and sensitive services.

## Question 11: What types of perpetrator services should be prioritised?

Most submissions responding to this question noted a critical need to expand the availability of Men's Behaviour Change Programs, and ensure they have the capacity to implement risk assessment and risk management processes. It was noted that the 2016 Victorian Royal Commission into Family Violence recommended substantial growth in the development, evaluation and delivery of perpetrator programs.

One respondent also stressed the need to evaluate perpetrator programs for effectiveness.

Respondents specified the following perpetrator services as priorities:

- Specialist perpetrator intervention services for vulnerable marginalised and diverse communities, including Aboriginal peoples, LGBTIQ+, culturally and linguistically diverse / refugee / migrant, young men, and those in rural, regional and remote locations. One respondent highlighted a need for culturally specific prevention services in Aboriginal communities that draw on community knowledge and Elders to resist drivers of violence.
- Evidence based services that adhere to the principles of the National Outcome Standards for Perpetrator Interventions. These principles include:
  - Women and children's safety is the core priority of the service
  - Perpetrators get the right interventions at the right time
  - Opportunities for early interventions prior to a criminal justice response
  - Services are connected to the specialist women's led service sector
- Men's Referral Service – expanding the service to cover the anticipated increase in number of calls following the commencement of coercive control legislation
- Partner contact services attached to Men's Behaviour Change Programs that focus on increasing the safety of women and children
- Programs aimed specifically at coercive control perpetrators who do not use physical violence, noting that entry into most Men's Behaviour Change Programs is triggered by the use of physical violence
- A fully resourced and formalised police outreach service, to directly connect men using violence to the Men's Referral Service. The service would make telephone contact with men identified as perpetrators of family violence within 48 hours of police response
- Crisis housing for perpetrators, to help keep victim-survivors safe in their homes, as part of a wider suite of perpetrator interventions. (e.g. Men's Accommodation and Counselling Service and Communicare's Breathing Space Intervention in Western Australia).

*"Recidivism can be influenced not only by policing, sentencing practices and parole monitoring, but also by the quality of interactions and integration between offenders and the community-based services."*



## Question 12: Are there any gaps in the services currently available to perpetrators of coercive control?

Respondents consistently reported that South Australia does not have sufficient perpetrator services, with significant gaps for perpetrators of all forms of violence and control. One respondent noted that current programs have long waiting lists, with a wait of up to six months to enter a behaviour change program.

Respondents reported gaps in:

- Early intervention responses to keep perpetrators in view and prevent escalation of violence
- Age-appropriate young perpetrator programs (18 to 25 years). It was noted the Men's services sector need specialised training on working with this cohort, which often have complex problems
- Services for men who use coercive control without violence
- Services provided to fathers, addressing:
  - the controlling and violent behaviours within a family context
  - impacts on children
  - positive role-modelling
  - co-parenting
- Psychological services
- Housing and homelessness services, particularly affordable, accessible, culturally safe accommodation solutions
- Specialist services and programs for marginalised, diverse and vulnerable groups such as LGBTQIA+, culturally and linguistically diverse and migrant / refugee communities, and Aboriginal communities
- Programs for men who come forward to seek help outside of the criminal justice system, including opportunities for men to examine their use of violence in relationships in non-stigmatising processes that still emphasise accountability, responsibility, and women and children's safety
- Funding to support families and children of persons enrolled in a perpetrator program. In other jurisdictions, affected family member safety work is a foundation of Men's Behaviour Change Program practice standards, and could be used as a template for South Australia. The aim is to ensure women and children are safe and that safety and risk is always assessed and monitored.

One respondent commented that the current system is fragmented, and most programs responding to domestic and family violence do not work with perpetrators. The respondent called for an integrated Family Violence System, proposing:

- State-wide intake for perpetrators in South Australia and a system to track men from point of referral through to engagement and program completion
- Increased resourcing for Men's Behaviour change programs that are connected to where men are already engaging with services
- Development of statewide Standards and quality accreditation processes for all Men's Behaviour Change programs
- Enhanced data collection and information sharing to understand patterns of behaviour and risk.

### Question 13: Are there any current specialist and mainstream service providers that could improve and / or tailor their current services for perpetrators of coercive control?

There were limited responses to this question that specified a current service. Responses included:

- One respondent supported the expansion of existing perpetrator counselling and treatment programs aimed at coercive control perpetrators, noting that such programs should take into consideration that perpetrators of coercive control span a continuum from 'malevolent sociopaths to overeager family members seeking to protect a person with cognitive impairment and who are unaware of their controlling behaviour'.
- Two respondents called for the Don't Become That Man program to be re-funded.
- One respondent nominated all perpetrator service providers and agencies across intervention systems as identified in the SA DFV Perpetrator Intervention Systems Map (Upton-Davis & Chung 2020), particularly those working within the Family Safety Framework and Multi-agency Protection Service. It was also suggested that the Centre for Restorative Justice could formulate and pilot the implementation of a trauma informed and victim-survivor led restorative conference program.
- The Court Administration Authority's Abuse Prevention Program – with more detailed case management, waitlist support and accountability for participants.
- One respondent recommended funding to develop and deliver a new suite of training packages on coercive control to the perpetrator workforce.

### Question 14: Is there anything else that should be considered as part of implementing a criminal offence relating to coercive control?

*"Criminalisation of coercive control must be considered as a package reform, to which extensive community and stakeholder consultation, improved sector funding of specialist services, increased awareness measures, whole-of-system training, improved community education and the establishment of national definitions will work together to help put a full stop to sexual, domestic, and family violence."*

*"...this is an uncomfortable conversation that everyone needs to have within their families, friends, local community and a wider audience where possible."*

Comments in response to this question covered a range of issues and concerns. General comments made under other questions are also included in this section.

Respondents raised the following issues:

### Development of legislation

- Respondents said there should be intensive community consultation prior to the formalisation of any offence and its implementation. Victim-survivors should be given the opportunity to engage in a truly collaborative manner with government to develop an appropriate legal response in relation to coercive control.
- Responses highlighted that how coercive control is defined will be critical to the effectiveness of the law and preventing harm due to a lack of safety or wellbeing:
  - It is important to clarify that coercive control is not just inflicted by an 'intimate partner' but can also be committed by family members, friends, people providing a service, and anyone in any form of relationship with the victim. Legislation introduced in 2021 was limited to intimate partners and does not address the vulnerability of people with disabilities to this form of abuse from a wider group of people (family members, service providers and community agencies).
- Several respondents commented that it is premature to introduce coercive control as a criminal offence, particularly prior to an agreement on national principles, which may affect the ability for national recognition of coercive control offences in South Australia.
- One respondent recommended a national approach, but if a standalone offence is introduced, there should be:
  - Broad consultation with family relationships services and other family violence practitioners, as well as with law enforcement and other government agencies to ensure resulting offences are capable of effective operationalisation and can be implemented in a way that supports, not undermines, therapeutic work with clients
  - Nationally recognised guidelines for police, prosecutors, and judicial officers as to what kind of evidence is probative of coercive control, and what constitutes a sufficient weight of evidence to clear the threshold of beyond reasonable doubt
  - Ongoing (and adequately resourced) monitoring and evaluation of the offences.
- Consideration should be given to the creation of a Domestic Abuse Act separate from the *Criminal Law Consolidation Act 1935*, saying that a separate piece of legislation emphasises the unique issues that arise in domestic violence as distinct from other offences because they take place in a "domestic setting". Separate legislation allows for the tailoring of offences and penalties to the circumstances of domestic abuse and for the creation of unique offences. A separate Act can have a potential psychological impact on those who enforce it because it creates a different policing sphere with different considerations.

### Implementation

- A number of respondents raised that adequate funding needs to be made available to support the implementation of a criminal offence for coercive control, as it requires a significant change in culture, understanding and ways of working for government agencies, community services, legal providers and institutions and the broader community. Without adequate funding being provided to enable training, education and cultural change there is a substantial risk that an offence will be on the books but will be rarely used and ineffective.

- Statements from psychologists must be admissible as an explanatory supplement to victims' evidence. This provides insight into the context of the behaviour and may also help to explain retaliatory or compliant behaviour of victims who are trying to minimise the effects of the coercive controlling behaviour.

### **Tailored responses to specific groups and communities**

- *Persons living with disability:* In implementing coercive control legislation, justice and domestic and family violence sector responses must be tailored to needs of women and girls with disability and address existing barriers they face. They have fewer pathways with first responders, including police, courts and domestic and family violence services who lack specialised knowledge in how to support women with disability. Making coercive control offences effective is reliant on victims being willing, and in a position, to engage with police and open to the potential of criminal charges. Marginalised groups (particularly women and girls with disability) may be reluctant to engage with police for fear of not being believed, fear of discrimination (ableism and sexism), fear that police intervention will escalate abuse, fear of child protection involvement and that children will be taken away.
- *Aboriginal communities:* Services for Aboriginal peoples should emphasise self-determination, innovation, localised responses and knowledge. Any decision making that includes a criminal justice response needs to include voice and agency of Anangu on the APY lands.
- *Male victims:* A significant proportion of family violence victims including coercive control are male. Many never report their victimisation or seek help, with many barriers to disclosing abuse. These include not knowing how, where to seek help, feelings that they won't be believed or understood as victims, and fear they will be falsely arrested. There are also feelings of denial, disbelief, shame and embarrassment at being unable to protect themselves, of being called weak and being ridiculed.

### **Managing unintended consequences**

- To ensure legislative change does not result in further overrepresentation of Aboriginal people in prison, one respondent recommended:
  - the ongoing reform of police practices and procedures, as well as police culture, together with a greater commitment to the development of collaborative projects (such as justice reform initiatives), to address the over-incarceration of South Australian Aboriginal people while still supporting victim-survivors
  - A consultation process should be conducted with Aboriginal groups in South Australia to inform the legislative changes and implementation phase.

### **Risk assessment and data collection**

- Risk assessment tools should be upgraded to reflect coercive control perpetrator behaviour. Tools currently in use often miss previous history, disability, pregnancy or new child and harm to pets.
- There should be mandatory, uniform, statewide domestic violence Routine Screening in all mainstream services, including alcohol and drugs, mental health, early childhood, hospital emergency departments and women's health centres.

- Data should be collected about domestic and family violence in LGBTIQ+ communities. The Department of Human Services recently published the 'Data Collection and Gender Guideline: Data collection and working with the LGBTIQ+ community'. This provides guidance to agencies on how to respectfully collect data about gender identity and sex in a manner inclusive of transgender and gender diverse people. One respondent strongly urged the South Australian Government to implement this guideline across government, and particularly in relation to domestic and family violence.
- Consideration should be given to the creation of a multi-agency risk assessment framework, similar to MARAM in Victoria, which requires universal and specialist services to assess for domestic and family violence and associated risk. This ensures that no matter which entry point, all services are effectively identifying, assessing and managing domestic and family violence risk.

## Evaluation

- One respondent commented it is also important to consider how South Australia will measure the impact and efficacy of coercive control criminal laws in preventing escalating violence against women and girls. Where coercive control offences have been introduced in other international and Australian jurisdictions, the only measure of success has been whether the laws have been used. Data is gathered from reports of domestic abuse, arrests for coercive control, charges laid, and successful prosecutions. The respondent proposed that efficacy must be considered in terms that include the impact of the new offences on:
  - Victim survivor safety, recovery and wellbeing
  - Victim survivor experience of the court process and the justice system
  - Perpetrator accountability, reoffending and behaviour change
  - Misidentification and criminalisation of victim survivors
  - Criminalisation of marginalised population groups.



## List of submissions

The Attorney-General's Department received 19 submissions representing the following organisations, services, advocacy groups and government authorities:

- The Law Society of South Australia
- Australian Psychological Society
- Commissioner for Victims' Rights
- Embolden SA Inc
- Full Stop Australia
- Legal Services Commission
- No to Violence
- NPY Women's Council
- OARS Community Transitions
- Relationships Australia SA
- South Australian Financial Counselling Association
- South Australian Rainbow Advocacy Alliance Inc
- SHINE SA
- Women's Legal Services SA
- Women's and Children's Health Network
- One in Three Campaign
- Royal Commission Response Unit, Attorney General's Department
- Office of the Public Advocate
- Uniting Communities

A further three submissions were received from individuals, including one academic and one person with lived experience of coercive control.

Released by AGD under the FOI Act 1991 (SA)

# **Discussion Paper: Implementation of coercive control offences in South Australia**

Summary of submissions

April 2022

Released by AGD, under the FOI Act 1991 (SA)



Government of South Australia  
Attorney-General's Department

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## Introduction

The Discussion Paper: Implementation of coercive control offences in South Australia was released for public consultation on 2 February 2022, to obtain feedback on fourteen questions under the themes of awareness raising, education and training, services for victim-survivors and responses to perpetrators. The consultation period closed on 1 April 2022.

The Attorney-General's Department received 22 submissions from a broad range of agencies and organisations, including general support services for victim-survivors and perpetrators, legal assistance services, advocacy groups, an academic and interested individuals. A full list of respondents is provided in Appendix 1.

This report provides a summary of the feedback provided against each question as well as additional issues raised by respondents.

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## Question 1: What are the key messages that should be communicated about coercive control?

Most respondents were supportive of a strong community awareness campaign for coercive control in conjunction with the creation of a criminal offence. Respondents identified three key messages that should be communicated as part of any such campaign, discussed below.

### What is coercive control and what does it look like?

Respondents noted the need for the community to have a greater understanding of coercive control, to be able to recognise these behaviours and respond appropriately.

*"Awareness raising and community understanding of the nature of coercive control is fundamental to the successful implementation of any legislation."*

Important messages about the nature of coercive control included:

- It is a pattern of behaviour over time rather than a single incident
- It is a key component of domestic and family violence
- It is a significant issue in Australia and prevention and response is everyone's responsibility
- It presents in many forms beyond physical aggression, and the behaviours may change over time. It may include subtle behaviours, or behaviours that may not be obvious to an external party but have a coded meaning for victim-survivors. Some groups may also experience specific forms of coercive control, such as spiritual abuse for Aboriginal peoples, threats regarding immigration status for women on temporary visas, and denial of reproductive and sexual rights for persons living with disability
- It is gender-based violence, being experienced more by women and perpetrated by men
- It can occur in different types of relationships beyond intimate partners, for example, control over a parent or of a child, between extended family members or in non-familial caring relationships
- It affects both current and former relationships, often extending beyond separation
- Children are victims of coercive control and domestic and family violence in their own right when it is perpetrated in their families
- Some people or groups can be more vulnerable to experiencing coercive control including Aboriginal women and children, people with disability, pregnant women, women with children, and older people
- Victim-survivors should not be blamed or shamed for their experiences
- Not all victims-survivors may describe that they are being coerced
- Everyone has the right to live their life free of violence and to enjoy full human rights and autonomy.



## Impact of coercive control

A number of respondents felt it was important for awareness campaigns to communicate the serious impacts of coercive control on victim-survivors, to assist in the identification of this abuse and to highlight the importance of responding appropriately. Specifically, that coercive control:

- can be equally harmful to, and sometimes more harmful than, physical violence
- results in fear, isolation, loss of self-worth and dignity, loss of autonomy and loss of capacity for decision making
- can have a cumulative impact over time
- can have serious consequences for the health, emotional and psychological wellbeing of victim-survivors

*"Coercive control needs to be understood by what it takes away or how it makes you feel... "*

## Responding to coercive control

One respondent recommended any messaging about coercive control be delivered in stages, with the initial stage describing what it looks like and why it is wrong, and a second stage about how victim-survivors, perpetrators and family members can respond. This could include information about:

- What the law says about coercive control
- The role of the new offences in providing protection from abuse
- What you can do if you are a victim-survivor of coercive control. For example, support services and maintaining documentation (to assist in future prosecution)
- What you can do if you know, or are worried about, someone who might be a victim-survivor of coercive control.
- If you feel you may be a perpetrating coercive control in your relationship(s), where you can talk to someone about this and what help is available.

Almost all respondents stressed the importance of messaging about coercive control that was representative of and tailored to:

- Aboriginal and Torres Strait Islander peoples and nations
- Culturally and linguistically diverse communities
- People living with disabilities
- LGBTQIA+ peoples
- Older persons
- Rural and regional communities

## Other considerations

Several submissions noted that National Principles on Addressing Coercive Control are currently being developed by the Meeting of Attorneys-General upon the recommendation of the House of Representatives Standing Committee on Social Policy and Legal Affairs report from its Inquiry into Family, Domestic and Sexual Violence (2021). National Principles will be able to inform a common language and framework for understanding key concepts relating to coercive control, which in turn can guide education, awareness and public communication initiatives.

To avoid confusion among individuals, agencies and communities, one respondent called for caution on the development and dissemination of public communication campaigns until a common definition of coercive control is agreed.

## Question 2: What are the best mediums to communicate information about coercive control to your community?

Respondents consistently reported that coercive control community awareness campaigns should include all forms of media and be available in multiple languages and formats to capture different cohorts: Specific suggestions were:

- Social media
- Television
- Radio, including community radio
- Digital platforms
- Bus stops
- Billboards
- Flyers and information available at pubs and events (e.g. music festivals, major sporting events)
- Community education delivered through community service organisations, sporting clubs, council groups and community centres
- Community speaking platforms for victim-survivors to share their lived experience

*"I have also found through my experience that just talking about your experience to others who are open to listening without judgement is a form of healing whilst also educating. My friends have heard my story so far and whilst they saw some behaviours ... whilst we were married, had no idea the depth of control that went on behind closed doors."*

- Dissemination of information (flyers, brochures, posters) through services and government agencies (health clinics, General Practitioners, legal support services, women's services)
- Mandatory respectful relationships programs in schools (Years 8 to 12), universities, workplaces, sporting clubs and community groups
- Age-appropriate discussions with younger children (prior to Year 8)
- Mediums specific to LGBTIQ+ South Australians such as:
  - TikTok
  - Grindr
  - Image based platforms like Instagram
  - Queer advocacy organisations like SARAA
  - Queer bars and venues
  - Community organisations like TransMasc SA, Drop in Care Centre, Queer Youth Drop In and Feast
  - Health services like SHINE SA and SAMESH
- Resources for community and business leaders
- Consider using arts and other cultural policy opportunities to promote survivor led stories
- Questionnaires that prompt increased understanding e.g. the Don't Become That Man Service questionnaire which asked the question "Are you aware of the signs" and had the reader consider several scenarios, culmination in recommending men contact the service if they had answered yes to any of the questions
- Accessible formats, including easy to read and plain English to ensure engagement with people living with disability, people of non-English speaking backgrounds, people with other literacy barriers.

Several submissions also reported the critical importance of direct consultation with victim-survivors and specific communities to determine the best ways to communicate information about coercive control.

#### **Other considerations**

One respondent requested consideration and preparation for the risk of adverse outcomes during an awareness campaign, such as escalation in the type and number of incidences of violence by perpetrators who are angered or threatened by messages.

### **Question 3: How is coercive control understood by you and more broadly within your community?**

Respondents generally reported their understanding of coercive control in terms of a range of controlling and manipulative behaviours used by perpetrators over time (a course of conduct) to control their partners and family members. Additional comments were:

- Coercive control is not widely understood by most of the community, with even greater lack of understanding by vulnerable groups such as women living with disability. One respondent noted that their members were generally unfamiliar with the term and initially unsure of its scope, but were able to recall experiences once definitions and examples were provided.
- Coercive control is usually carried out by someone in a relationship of trust with the victim, which adds to the lack of understanding that the actions are wrong.
- Coercive control encompasses psychological, physical, sexual, financial and emotional abuse, and controlling behaviours, defined as making a person subordinate and / or dependent by isolating them from their sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape, and regulating their everyday lives.

6(1) Personal affairs

## Other considerations

### *Definition of coercive control*

Eight submissions called for a clear definition of coercive control, with three supporting a national definition, to enable a shared understanding of the behaviour and appropriate responses. As noted, National Principles on Addressing Coercive Control are currently being developed by the Meeting of Attorneys-General (MAG 2021).

Specifically, respondents noted:

- terminology and definitions are important, and it should be clear and universal what the issue is
- any definition must reflect the unique and specific forms of abuse experienced by women and girls with disability
- a nuanced definition should be adopted that reflects the range of tactics a perpetrator may use in different contexts
- a definition must take into account that:
  - abuse is not limited to physical violence but inclusive of all forms of aggression where there is a pattern of behaviour characterised by the use of force (name calling, threats, public denigration) and/or other controlling aspects (financial abuse, monitoring and surveillance) of a persistent and an emotionally abusive nature
  - the impact of the abuse on the victim-survivor (fear, isolation, loss of self-worth and dignity, loss of autonomy and capacity for decision making)
  - the intention or motivation behind the behaviour on the part of the perpetrator (subjugation, physical coercion, isolation, degradation, intimidation)
  - types of behaviour may change over time and vary in modality (e.g. in person vs online), frequency, and severity
  - current and former relationships as coercive control may extend beyond separation

One respondent recommended consideration of the Scottish Domestic Abuse Act, which uses a course of conduct model and extensively defines abusive behaviour. The respondent was supportive of a broader definition beyond domestic partner or former partner, including Aboriginal kinship roles and other kinds of personal relationships.

Another respondent expressed concern about a prescribed understanding of coercive control, arguing that it does not have a universal context or set behaviour, particularly in relation to remote Aboriginal communities. For these communities, who are using their specific strengths and understandings for solutions and decision making in relation to domestic and family violence, the respondent reported that a universal prescribed response may contribute to ongoing oppression and systematic violence against Aboriginal women, children and communities.

## Question 4: If it were made an offence, what might this mean to you and the people around you?

The submissions outlined the potential for both positive and negative outcomes for victim-survivors should coercive control be made an offence, while others expressed doubts that it would have any significant impact.

### Potential benefits of making coercive control an offence:

- Recognises the seriousness of the behaviour and reinforces the understanding that we do not accept or tolerate it
- Recognises the importance of maintaining a person's right and capacity to prioritise their own safety and wellbeing
- Will allow victim-survivors to be heard and have their experiences validated
- Can make a positive difference to the wellbeing, mental health, and sense of self-worth of victims and assist them in seeking appropriate and prompt help much earlier in a relationship
- Perpetrators will know that their behaviour is unlawful and that they can be held accountable through a jail sentence or other penalties
- Service provider staff will have clear guidelines and boundaries about the behaviour which will assist in supporting victim-survivors and guiding responses to perpetrators
- Provides an additional safeguarding measure for vulnerable people in South Australia, including people with cognitive impairment
- Access to enhanced legal, economic and other systemic protections and outcomes.

*"I believe if it were an offence the offender in my situation would have been charged and would have been forced to stop the behaviours, although if he chose to continue along the coercive control behaviours, I would have had more protection for my wellbeing and safety through police having the ability to apprehend the perpetrator."*

### Potential issues for a coercive control offence

- A coercive control offence may result in harmful unintended consequences for victims particularly those belonging to groups disproportionately represented in the criminal justice system, such as Aboriginal women and their communities, women with disabilities, LGBTIQ+ people, culturally and linguistically diverse communities (including migrant and refugee women) and women from lower socio-economic backgrounds.
- A coercive control offence may contribute to the growing incarceration and criminalisation of Aboriginal women through the misidentification of victims of long-term significant violence as primary aggressors, then being defendants on reciprocal intervention orders and being charged with assault at high rates. This is a particular concern in small communities where there is significant bias relating to race and gender and a general misunderstanding of broader patterns of domestic and family violence.



*"The risk of disproportionate criminalisation / incarceration of perpetrators from these groups, and compounding of cascading risk (e.g. loss of housing, child protection interventions, loss of income support) needs to be considered prior to criminalisation of coercive control and implementation of legislation."*

- An unintended consequence of a coercive control offence may be that violence escalates if perpetrators are held to account

*"It's unclear, but quite likely making coercive control and offence will mean more - not less - physical violence against the people around me. There's good reason to think charging and convicting those using coercive control will have little or no effect on reducing violence and may well escalate non-physical violence to physical violence - especially where these laws result in incarceration."*

- Potential for the offence to be used as a weapon by perpetrators, by accusing the victim-survivor of coercive control and involving them in potentially drawn-out legal matters. Legal system abuse is one of the ways perpetrators continue abuse after separation. For example, in the intervention order system, some perpetrators force a trial and then appeal the original decision.
- Difficulties in policing a coercive control offence:
  - Police first responders will not always have access to systems that look across time and will not have the ability to examine financial or technological records. Without proper training, Police may not have the expertise or the time to undertake appropriate enquiries, particularly in remote and regional areas.
  - Cultural barriers in policing domestic and family violence: whilst police have some training and general orders contain directions to provide a culturally safe response, community attitudes still reflect that there are cultural barriers in policing.
- It may be difficult for prosecutors to successfully establish an offence of coercive control. The prosecution of an offence presents a less rapid response, potentially requiring a higher standard of proof than current legislation (*Intervention Orders (Prevention of Abuse) Act 2009*). This has implications for victim-survivors who face the distressing experience of giving evidence, with a slim possibility of a meaningful result. A number of respondents noted collaborative research currently underway between Uniting Communities and UniSA, and funded by the Law Foundation of South Australia, may be helpful when considering coercive control legislation. The report: *Powerful Interventions: Improving the use and enforcement of Intervention Orders as a tool to address family and domestic violence in South Australia* is due to be published in June 2022. The research aims to clearly describe the existing legislation governing the issue, use and enforcement of intervention orders and identify potential barriers to the effectiveness of this legal framework in South Australia.
- The legal emphasis in criminalising coercive control does not recognise that some victims will not want to pursue criminal charges, but will want behavioural change, which may be achieved by alternative resolution methods such as restorative justice and counselling for partners.

- While strongly supporting criminalisation, one respondent noted that LGBTIQ+ communities will need additional, culturally appropriate support for the legislation to be used effectively in these communities. LGBTIQ+ persons are unlikely to report abuse unless they are supported to feel safe, trust they will be believed, will not face homophobia, and will be provided with appropriate responses.

### No impact

Three submissions were of the view there was little evidence to suggest criminalisation, in and of itself, will have the desired impact for victims in addressing the behaviours and lowering rates of coercive control. Specifically:

- new offences will only increase ability of criminal justice systems to respond if they correctly identify non-physical abuse
- In view of limited success elsewhere, it is essential there is:
  - a significant increase in available services to support women and other victims pre and post the legal process
  - a significant increase in perpetrator services at the earliest opportunity to engage men, regardless of criminal charges or conviction being recorded.

*"Is there any evidence that criminalising coercive control reduces the incidence of coercive control or physical violence in the community? ... What I do see is evidence that people are being arrested, prosecuted and convicted... But is it reasonable to assume convictions mean the laws are 'working' and reducing abusive behaviour?"*

It was also noted by one respondent that how the offence is defined and the supports and training to be rolled out as part of the implementation process for the offence, will determine the potential impact for victim-survivors, perpetrators and the criminal justice system.

### Question 5: If you were concerned about the use of coercive control as an individual, or on behalf of someone else, what systems and services would you approach for support or advice?

Respondents reported a wide range of services and supports that could be approached by individuals concerned about the use of coercive control.

#### Victim-survivors

- Friends
- Lived experience advocacy and/or support groups
- Criminal Justice / legal assistance services
  - SA Police (including specialist domestic and family violence units)
  - Domestic Violence Disclosure Scheme
  - Women's Legal Service
  - Legal Services Commission
  - Women's Domestic Violence Court Assistance Service
  - Family Law Services

- Health services
  - Hospitals and emergency departments
  - Child and family health nurses
  - Mental Health
  - Alcohol and drug
  - Aboriginal controlled health services
  - Women's health services
- Specialist Domestic and Family Violence services
- Women's safety services
- South Australian Domestic Violence Crisis Line
  - Safe at Home services (assessment, safety management planning, home security audits and coordination of security upgrades)
- 1800 RESPECT support, counselling and referrals (24 hour hotline and web-based support)
- Other telephone support services like Lifeline and Kids Helpline
- Rebuild (Counselling for Victims of Crime) and Victims of Crime SA
- Family Relationship Centres
- Homeless services
- Schools
- Child Protection services
- Multicultural services
- Hairdressers and beauticians
- Animal shelters
- Workplace programs that can identify and respond and support women in the workplace experiencing coercive control
- Community services organisations, which are key entry points for social and material support for victims
- Adult Safeguarding Unit located in the Office for Ageing Well. The Adult Safeguarding Unit supports adults vulnerable to abuse including older people, Aboriginal people and people living with a disability.
- Aged Rights Advocacy Service for older people
- Six disability advocacy services in SA for younger people
- SACAT - as a last resort - the victim-survivor is protected by coming under the guardianship of a trusted individual or the Public Advocate.

## Perpetrators

- Specialist perpetrator referral and intervention services, including No to Violence Men's Referral Service and Brief Intervention Service (time limited, multi-session telephone support for men pre and post behaviour change who are currently on a waiting list for men's family support).

**Question 6: What education and training is needed to improve the justice sector's understanding of coercive control and detect, investigate and prosecute coercive control appropriately?**

*"Any law to criminalise coercive control will only be as effective as those who enforce, prosecute, and apply it. Improving these practices through education and training and embedding best practice and expertise in domestic and family violence and disability in the courts is as important as creating the new offence."*

*"...any evidence-based training should encourage critical, reflective awareness of the beliefs and subjectivities officers hold and the impact these have on the judgements they may make regarding victims and cases."*

Respondents were generally consistent in calling for justice sector education and training that is:

- evidence-based
- co-designed and delivered with victim-survivors
- trauma informed
- incorporates cultural considerations for Aboriginal peoples and culturally and linguistically diverse communities
- focused on vulnerable victim-survivors including older persons, and persons with disability
- delivered across all sectors of the justice system - police, prosecution and judiciary - including both criminal and civil jurisdictions
- provided on a regular and consistent basis, with refresher programs incorporating the latest evidence and best practice models.

A number of respondents called for compulsory domestic violence training for first responders, prosecutors, the judiciary and Magistrates Court staff. Most respondents provided broad suggestions, without specifying a particular branch of the justice sector.

Suggested topics for inclusion in training:

- How to recognise coercive control, including:
  - patterns of behaviour – moving from incident-based approach to an understanding of coercive control course of conduct (particularly for police)
  - impacts – isolation, fear, anxiety, harm to mental health, use of alcohol and other drugs, and impact on family relationships
  - identifying the predominant aggressor during domestic and family violence call outs
  - awareness of manipulative behaviour
  - myths and misconceptions about coercive control and how to counter them
  - in the broader context of sexual, domestic and family violence

- How to respond to a victim-survivor in a trauma informed manner
  - It was noted that victim-survivors may not respond in a manner that is deemed consistent with the stereotypical view of victims, to the extent that police may question survivor credibility. It is quite common for victims to develop maladaptive coping behaviours and may also be flat and emotionless in their retelling of incidents and / or they may have disjointed recollections, as a result of post-traumatic stress disorder.
- How to engage victim-survivors, including those from vulnerable or diverse groups:
  - awareness of cultural considerations for Aboriginal and culturally and linguistically diverse communities that might impact on the victim-survivor disclosing to police
  - understanding of what coercive control may mean for person with cognitive impairment or other disability
  - that actions do not re-victimise the victim-survivor and pressure or persuade a change in response
- How to identify and provide appropriate:
  - safety strategies for victim-survivors
  - referrals to support services
  - consequences for perpetrators to keep victims safe
- The role each agency plays in effectively addressing the issue (to ensure a coordinated and prompt safety response).

For police, it was suggested that training cover how to gather evidence for coercive control matters including:

- Initial investigation should comprise
  - Photographs of scene and injuries
  - Medical evidence of any injuries
  - Recording of emergency response call
  - Evidence from family or friends
- Specialist knowledge and interview skills to support gathering of evidence, including how to obtain statements from persons with cognitive impairment that do not disadvantage the victim-survivor.

One respondent suggested key questions to ask victim-survivors as part of the consultation process in developing training:

- What will be useful, respectful, and relevant immediate responses from the justice system?
- What steps can be implemented quickly to ensure the safety of victim-survivor and the safety of their children and other people of concern?
- What steps can be implemented quickly to ensure that the perpetrators stop using these forms of violence and abuse and are held accountable for causing the victim-survivor to experience fear and harm?
- What other relevant agencies could the justice system be liaising with for a comprehensive overview of the situation and to ensure the safety of victims/survivors, children and family members?
- What coercive control acts create fear (even if the acts may appear to be 'minimal' or 'not relevant' to issues relating to domestic and family violence)?



The following models were suggested for training programs in South Australia:

- Domestic Abuse (DA) Matters Scotland
- SafeLives UK / Police Scotland training program for law enforcement, which incorporates a 'Health Check', Train the Trainer course, Senior Leaders workshop and both intensive and on the job e-learning and face to face training for police officers and staff. The program is geared towards effecting mass behavioural change among the police force, training and deploying "Domestic Abuse Matters Champions" to lead change and support their colleagues (SafeLives 2020).

### **Question 7: What education and training is needed for organisations that work with victim-survivor and perpetrators of coercive control e.g. in health, housing, education, etc.?**

Respondents indicated that education and training on coercive control should be delivered to a broad range of professions, including those who do not necessarily encounter domestic and family violence victim-survivors or perpetrators on a regular basis. They included:

- Frontline health workers
  - Alcohol and drug services
  - Mental health services
- Psychologists
- Child protection workers
- Social workers
- General practitioners
- Dentists
- Teachers
- Service SA front line workers
- Housing services
- Financial counsellors

Suggested topics for education and training included:

- What are coercive control signs and behaviours and how to identify them
  - A pattern of behaviour rather than a stand-alone incident
  - Understanding and awareness of tactics used to manipulate victim/survivors and responders (using case studies)
- Understanding of the legislation that criminalises coercive control
  - Why we need the laws
- How to respond when abuse is suspected (what processes to establish)
  - Where to refer to services for help for both victim-survivors and perpetrators, not just for personal support, but also for practical support such as accommodation and financial assistance and free legal services
  - Access to any funding available for support for victim-survivors such as the Escaping Domestic Violence Grants and other supports through Victims of Crime.
  - Reporting obligations and processes
  - Appropriate documentation to assist any future police investigation

- How to work with victim-survivors and perpetrators, including:
  - using a trauma informed response
  - understanding of the issues across various communities - people with a disability, people from regional, metropolitan, and remote communities, and people from Aboriginal, culturally and linguistically diverse and LGBTIQ+ communities
  - how to work with young perpetrators aged 18 to 25, who often have complex problems
- Avoiding unintended consequences of the new offences, e.g. where the perpetrator identifies the victim-survivors as the perpetrator
- Health promotion focus, reflecting the right to be safe and well.

One respondent reported that education and training about coercive control within Aboriginal communities should be based on localised understanding and local languages, noting that not one 'size' of training will fit all. Such training should include:

- uplifting stories of resistance to violence – a tool for safety used by women on the APY Lands
- a focus on historical acts of violence (embedded in story telling)
- understanding acts of violence in all their forms.

As with training and education for the justice sector, respondents also noted that training for other professionals should be developed with experts in domestic and family violence and people with lived experience. This should include experiences of vulnerable and diverse groups, including older people and people with disability.

## **Question 8: What types of coercive control services should be prioritised?**

The responses to this question generally referred to broader domestic and family violence services rather than coercive control alone. It was noted that increased awareness of coercive control will bring an increase in service referrals, particularly if it is criminalised.

One respondent suggested that services should be mapped to identify duplication and gaps.

Two respondents identified perpetrator services as a priority, to ensure men are engaged in programs at the earliest presentation.

Identified service priorities for victim-survivors included:

- Legal support
  - Timely and accurate advice about legal rights, child support, property settlement, debts and care arrangements for children
  - Specialist women's legal services with expertise and insight into systems abuse as a common tactic used by perpetrators
  - Pre and post court appearance supports for victim-survivors to promote safety and well-being and increase the chance they will benefit from court process (for example, the Women's Legal Service SA and Women's Domestic Violence Court Assistance Service)

- Psychological support
- Financial support to assist victims in cases of financial abuse, including financial and budgeting assistance and civil or family court action
- Resources and pathways for women wishing to leave abusive relationships, or safely remain home with their children
- Recovery services to re-build confidence and self-esteem of victim-survivors
  - victims of crime counselling
  - positive peer support to build healthy relationships and support networks
  - holistic trauma informed services to victim-survivors and defendants in a health care setting (for example, the Nargneit Birrang Framework: Aboriginal Holistic Healing Framework for Family Violence).
- Early intervention supports and services

Most respondents also noted the need for accessible and inclusive services for victim-survivors including:

- Place-based services particularly supporting victim-survivors in regional, rural and remote communities
- Services accessible to people without internet access or with limited digital literacy
- Appropriate services for diverse, vulnerable and marginalised individuals and groups:
  - culturally and linguistically diverse communities
  - LGBTIQ+ groups
  - persons living with disability, including cognitive impairment
  - recognising children as victim-survivors in their own right.

### **Question 9: Are there any gaps in the services currently available to victim-survivor of coercive control?**

Responses to this question were similar to the service priorities identified in Question 8, with most having a broader domestic and family violence focus.

In line with the service priorities noted in Question 8, gaps were identified in:

- Services for diverse, vulnerable, marginalised communities including Aboriginal peoples, LGBTIQ+ community, culturally and linguistically diverse, migrant and refugee communities (particularly for women on Temporary Protection Visas), people with disability (including cognitive impairment), children and young people, older people, and those in regional, rural and remote settings.
- One respondent specifically noted that many institutions are not safe for LGBTIQ+ people to access. Many existing services prioritise people who are heterosexual and not transgender or gender diverse, and fail to account for domestic and family violence in same sex relationships. This response suggested that all services engaged in service provision should undergo LGBTIQ+ inclusion training, most notably training based on Rainbow Tick, a national quality framework that helps health and human services organisations show they are safe, inclusive and affirming services and employers. In South Australia, SHINE SA delivers HOW2 LGBTIQ Inclusion Training, based on Rainbow Tick Accreditation.

- Services for male/victim-survivors. It was reported that male victims are discriminated against in policy and service provision, stating that government funded services are often suspicious of male perpetrators claiming to be victims. Generic support is available, but is often unaware of unique issues faced by male victims (for example, male victims are often not believed, their experiences are minimised, and they are blamed for the abuse).
- Psychological services: there are currently long waiting lists for psychological services
- Pre and post court appearance support for victim-survivors, acknowledging that court appearances can be traumatic
- Recovery services: wrap around supports, including mental health services to victim-survivors to rebuild their lives and address issues used to cope with domestic and family violence such as alcohol and drug use, gambling and self-harm. It was noted that the Child and Adolescent Mental Health Service is geared to more complex mental health issues and is not often accessible for victim-survivors and children.

*"People experiencing family and domestic violence are less likely to leave abusive relationships when there is insufficient psychological support to make the decision, or without connection to safe, local services tailored to their individual need. This creates a revolving door of victims leaving and being forced to return to violent relationships, due to a lack of emotional, psychological, and practical resources."*

Additional comments reflected concerns about the type and scope of service delivery, with calls for:

- Collaborative services for victim-survivors and corresponding perpetrator interventions in a solely funded collaborative model, to maximise information sharing, risk assessment and safety planning
- Responses outside of the criminal justice system. One respondent recommended the establishment of a mediation service which provides conciliation and counselling for the victim-survivor and perpetrator – particularly for financial abuse. As the perpetrators of financial abuse against older people are often family members, many victims may not wish to report the abuse to avoid causing trouble for the family member in question. It is likely a victim-survivor of coercive control may be more willing to engage with mediation than one which escalates the issue to a criminal offence for perpetrator.

One respondent also reported a specific gap in experienced domestic and family violence support at police front counters. This response recommended trained, designated officers be present at selected police front counters to respond to victim-survivor reports and ensure a more consistent, specialist response. It was suggested this initiative should include a specific interview room for privacy, which is critical to successfully responding to victim-survivor experiences.

## **Question 10: Are there any current specialist and mainstream service providers that could improve and / or tailor their current services for victim-survivors of coercive control?**

Responses to this question generally indicated that existing specialist and mainstream services could improve and/or tailor their current services for victim-survivors of coercive control, with adequate supports.

One respondent noted that responses to questions about service gaps and potential capability depend upon how coercive control is defined and the strength of the law. If it remains within a domestic and family violence context, then strengthening and resourcing domestic and family violence supports would be appropriate.

Another respondent commented that there is always opportunity for improvements, but this requires time, labour and resources, which are rare in the community service sector. The respondent also noted that there was a role for government in supporting and providing opportunities for enhanced collaboration with the sectors, to minimise gaps and strengthen partnerships.

Respondents specifically identified the following services that could possibly tailor their current operations to support victim-survivors of coercive control:

- Women's Legal Service Advice
- Women's Safety Services SA
- Women's Domestic Violence Court Assistance Service
- Relationships Australia South Australia
- Aboriginal community controlled family violence legal prevention units
- Aboriginal community controlled domestic and family violence services
- Financial services sector
- Adult Safeguarding Unit
- Aged Rights Advocacy Service
- Legal Services Commission
- Victims of Crime SA
- Individual disability advocacy services.

One respondent reported there are significant opportunities for all service providers to build upon the coercive control evidence base and improve current service offerings. It recommended increased funding to specialist women's and culturally specific services that meet the standards set by the Australian Women Against Violence Alliance which stipulate:

- A rights-based approach
- Advancing gender equality and women's empowerment
- A client-centred approach
- Women's safety is central
- Perpetrator accountability
- Accessible, culturally appropriate and sensitive services.



## Question 11: What types of perpetrator services should be prioritised?

Most submissions responding to this question noted a critical need to expand the availability of Men's Behaviour Change Programs, and ensure they have the capacity to implement risk assessment and risk management processes. It was noted that the 2016 Victorian Royal Commission into Family Violence recommended substantial growth in the development, evaluation and delivery of perpetrator programs.

One respondent also stressed the need to evaluate perpetrator programs for effectiveness.

Respondents specified the following perpetrator services as priorities:

- Specialist perpetrator intervention services for vulnerable marginalised and diverse communities, including Aboriginal peoples, LGBTIQ+, culturally and linguistically diverse / refugee / migrant, young men, and those in rural, regional and remote locations. One respondent highlighted a need for culturally specific prevention services in Aboriginal communities that draw on community knowledge and Elders to resist drivers of violence.
- Evidence based services that adhere to the principles of the National Outcome Standards for Perpetrator Interventions. These principles include:
  - Women and children's safety is the core priority of the service
  - Perpetrators get the right interventions at the right time
  - Opportunities for early interventions prior to a criminal justice response
  - Services are connected to the specialist women's led service sector
- Men's Referral Service – expanding the service to cover the anticipated increase in number of calls following the commencement of coercive control legislation
- Partner contact services attached to Men's Behaviour Change Programs that focus on increasing the safety of women and children
- Programs aimed specifically at coercive control perpetrators who do not use physical violence, noting that entry into most Men's Behaviour Change Programs is triggered by the use of physical violence
- A fully resourced and formalised police outreach service, to directly connect men using violence to the Men's Referral Service. The service would make telephone contact with men identified as perpetrators of family violence within 48 hours of police response
- Crisis housing for perpetrators, to help keep victim-survivors safe in their homes, as part of a wider suite of perpetrator interventions. (e.g. Men's Accommodation and Counselling Service and Communicare's Breathing Space Intervention in Western Australia).

*"Recidivism can be influenced not only by policing, sentencing practices and parole monitoring, but also by the quality of interactions and integration between offenders and the community-based services."*

## Question 12: Are there any gaps in the services currently available to perpetrators of coercive control?

Respondents consistently reported that South Australia does not have sufficient perpetrator services, with significant gaps for perpetrators of all forms of violence and control. One respondent noted that current programs have long waiting lists, with a wait of up to six months to enter a behaviour change program.

Respondents reported gaps in:

- Early intervention responses to keep perpetrators in view and prevent escalation of violence
- Age-appropriate young perpetrator programs (18 to 25 years). It was noted the Men's services sector need specialised training on working with this cohort, which often have complex problems
- Services for men who use coercive control without violence
- Services provided to fathers, addressing:
  - the controlling and violent behaviours within a family context
  - impacts on children
  - positive role-modelling
  - co-parenting
- Psychological services
- Housing and homelessness services, particularly affordable, accessible, culturally safe accommodation solutions
- Specialist services and programs for marginalised, diverse and vulnerable groups such as LGBTQIA+, culturally and linguistically diverse and migrant / refugee communities, and Aboriginal communities
- Programs for men who come forward to seek help outside of the criminal justice system, including opportunities for men to examine their use of violence in relationships in non-stigmatising processes that still emphasise accountability, responsibility, and women and children's safety
- Funding to support families and children of persons enrolled in a perpetrator program. In other jurisdictions, affected family member safety work is a foundation of Men's Behaviour Change Program practice standards, and could be used as a template for South Australia. The aim is to ensure women and children are safe and that safety and risk is always assessed and monitored.

One respondent commented that the current system is fragmented, and most programs responding to domestic and family violence do not work with perpetrators. The respondent called for an integrated Family Violence System, proposing:

- State-wide intake for perpetrators in South Australia and a system to track men from point of referral through to engagement and program completion
- Increased resourcing for Men's Behaviour change programs that are connected to where men are already engaging with services
- Development of statewide Standards and quality accreditation processes for all Men's Behaviour Change programs
- Enhanced data collection and information sharing to understand patterns of behaviour and risk.

### **Question 13: Are there any current specialist and mainstream service providers that could improve and / or tailor their current services for perpetrators of coercive control?**

There were limited responses to this question that specified a current service. Responses included:

- One respondent supported the expansion of existing perpetrator counselling and treatment programs aimed at coercive control perpetrators, noting that such programs should take into consideration that perpetrators of coercive control span a continuum from 'malevolent sociopaths to overeager family members seeking to protect a person with cognitive impairment and who are unaware of their controlling behaviour'.
- Two respondents called for the Don't Become That Man program to be re-funded.
- One respondent nominated all perpetrator service providers and agencies across intervention systems as identified in the SA DFV Perpetrator Intervention Systems Map (Upton-Davis & Chung 2020), particularly those working within the Family Safety Framework and Multi-agency Protection Service. It was also suggested that the Centre for Restorative Justice could formulate and pilot the implementation of a trauma informed and victim-survivor led restorative conference program.
- The Court Administration Authority's Abuse Prevention Program – with more detailed case management, waitlist support and accountability for participants.
- One respondent recommended funding to develop and deliver a new suite of training packages on coercive control to the perpetrator workforce.

### **Question 14: Is there anything else that should be considered as part of implementing a criminal offence relating to coercive control?**

*"Criminalisation of coercive control must be considered as a package reform, to which extensive community and stakeholder consultation, improved sector funding of specialist services, increased awareness measures, whole-of-system training, improved community education and the establishment of national definitions will work together to help put a full stop to sexual, domestic, and family violence."*

*"...this is an uncomfortable conversation that everyone needs to have within their families, friends, local community and a wider audience where possible."*

Comments in response to this question covered a range of issues and concerns. General comments made under other questions are also included in this section.

Respondents raised the following issues:

### Development of legislation

- Respondents said there should be intensive community consultation prior to the formalisation of any offence and its implementation. Victim-survivors should be given the opportunity to engage in a truly collaborative manner with government to develop an appropriate legal response in relation to coercive control.
- Responses highlighted that how coercive control is defined will be critical to the effectiveness of the law and preventing harm due to a lack of safety or wellbeing:
  - It is important to clarify that coercive control is not just inflicted by an 'intimate partner' but can also be committed by family members, friends, people providing a service, and anyone in any form of relationship with the victim. Legislation introduced in 2021 was limited to intimate partners and does not address the vulnerability of people with disabilities to this form of abuse from a wider group of people (family members, service providers and community agencies).
- Several respondents commented that it is premature to introduce coercive control as a criminal offence, particularly prior to an agreement on national principles, which may affect the ability for national recognition of coercive control offences in South Australia.
- One respondent recommended a national approach, but if a standalone offence is introduced, there should be:
  - Broad consultation with family relationships services and other family violence practitioners, as well as with law enforcement and other government agencies to ensure resulting offences are capable of effective operationalisation and can be implemented in a way that supports, not undermines, therapeutic work with clients
  - Nationally recognised guidelines for police, prosecutors, and judicial officers as to what kind of evidence is probative of coercive control, and what constitutes a sufficient weight of evidence to clear the threshold of beyond reasonable doubt
  - Ongoing (and adequately resourced) monitoring and evaluation of the offences.
- Consideration should be given to the creation of a Domestic Abuse Act separate from the *Criminal Law Consolidation Act 1935*, saying that a separate piece of legislation emphasises the unique issues that arise in domestic violence as distinct from other offences because they take place in a "domestic setting". Separate legislation allows for the tailoring of offences and penalties to the circumstances of domestic abuse and for the creation of unique offences. A separate Act can have a potential psychological impact on those who enforce it because it creates a different policing sphere with different considerations.

### Implementation

- A number of respondents raised that adequate funding needs to be made available to support the implementation of a criminal offence for coercive control, as it requires a significant change in culture, understanding and ways of working for government agencies, community services, legal providers and institutions and the broader community. Without adequate funding being provided to enable training, education and cultural change there is a substantial risk that an offence will be on the books but will be rarely used and ineffective.

- Statements from psychologists must be admissible as an explanatory supplement to victims' evidence. This provides insight into the context of the behaviour and may also help to explain retaliatory or compliant behaviour of victims who are trying to minimise the effects of the coercive controlling behaviour.

### **Tailored responses to specific groups and communities**

- *Persons living with disability:* In implementing coercive control legislation, justice and domestic and family violence sector responses must be tailored to needs of women and girls with disability and address existing barriers they face. They have fewer pathways with first responders, including police, courts and domestic and family violence services who lack specialised knowledge in how to support women with disability. Making coercive control offences effective is reliant on victims being willing, and in a position, to engage with police and open to the potential of criminal charges. Marginalised groups (particularly women and girls with disability) may be reluctant to engage with police for fear of not being believed, fear of discrimination (ableism and sexism), fear that police intervention will escalate abuse, fear of child protection involvement and that children will be taken away.
- *Aboriginal communities:* Services for Aboriginal peoples should emphasise self-determination, innovation, localised responses and knowledge. Any decision making that includes a criminal justice response needs to include voice and agency of Anangu on the APY lands.
- *Male victims:* A significant proportion of family violence victims including coercive control are male. Many never report their victimisation or seek help, with many barriers to disclosing abuse. These include not knowing how, where to seek help, feelings that they won't be believed or understood as victims, and fear they will be falsely arrested. There are also feelings of denial, disbelief, shame and embarrassment at being unable to protect themselves, of being called weak and being ridiculed.

### **Managing unintended consequences**

- To ensure legislative change does not result in further overrepresentation of Aboriginal people in prison, one respondent recommended:
  - the ongoing reform of police practices and procedures, as well as police culture, together with a greater commitment to the development of collaborative projects (such as justice reform initiatives), to address the over-incarceration of South Australian Aboriginal people while still supporting victim-survivors
  - A consultation process should be conducted with Aboriginal groups in South Australia to inform the legislative changes and implementation phase.

### **Risk assessment and data collection**

- Risk assessment tools should be upgraded to reflect coercive control perpetrator behaviour. Tools currently in use often miss previous history, disability, pregnancy or new child and harm to pets.
- There should be mandatory, uniform, statewide domestic violence Routine Screening in all mainstream services, including alcohol and drugs, mental health, early childhood, hospital emergency departments and women's health centres.



- Data should be collected about domestic and family violence in LGBTIQ+ communities. The Department of Human Services recently published the 'Data Collection and Gender Guideline: Data collection and working with the LGBTIQ+ community'. This provides guidance to agencies on how to respectfully collect data about gender identity and sex in a manner inclusive of transgender and gender diverse people. One respondent strongly urged the South Australian Government to implement this guideline across government, and particularly in relation to domestic and family violence.
- Consideration should be given to the creation of a multi-agency risk assessment framework, similar to MARAM in Victoria, which requires universal and specialist services to assess for domestic and family violence and associated risk. This ensures that no matter which entry point, all services are effectively identifying, assessing and managing domestic and family violence risk.

## Evaluation

- One respondent commented it is also important to consider how South Australia will measure the impact and efficacy of coercive control criminal laws in preventing escalating violence against women and girls. Where coercive control offences have been introduced in other international and Australian jurisdictions, the only measure of success has been whether the laws have been used. Data is gathered from reports of domestic abuse, arrests for coercive control, charges laid, and successful prosecutions. The respondent proposed that efficacy must be considered in terms that include the impact of the new offences on:
  - Victim survivor safety, recovery and wellbeing
  - Victim survivor experience of the court process and the justice system
  - Perpetrator accountability, reoffending and behaviour change
  - Misidentification and criminalisation of victim survivors
  - Criminalisation of marginalised population groups.

## List of submissions

The Attorney-General's Department received 19 submissions representing the following organisations, services, advocacy groups and government authorities:

- The Law Society of South Australia
- Australian Psychological Society
- Commissioner for Victims' Rights
- Embolden SA Inc
- Full Stop Australia
- Legal Services Commission
- No to Violence
- NPY Women's Council
- OARS Community Transitions
- Relationships Australia SA
- South Australian Financial Counselling Association
- South Australian Rainbow Advocacy Alliance Inc
- SHINE SA
- Women's Legal Services SA
- Women's and Children's Health Network
- One in Three Campaign
- Royal Commission Response Unit, Attorney General's Department
- Office of the Public Advocate
- Uniting Communities

A further three submissions were received from individuals, including one academic and one person with lived experience of coercive control.

Released by AGD under the FOI Act 1991 (SA)

**Discussion Paper:  
Implementation considerations  
should coercive control be  
criminalised in South Australia**

Released by AGD, under the FOI Act 1991 (SA)



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Released by AGD, under the FOI Act 1991 (SA)

## Foreword

Domestic and family violence (DFV) continues to be a blight on our community. In South Australia during 2020 there were 9,451 recorded victims/survivors of DFV related assault and sexual assault.<sup>i</sup>

Unfortunately, many more DFV behaviours go unreported to police or DFV support services. This includes coercive and controlling behaviours, such as isolating a person from their friends and family and denying financial autonomy. While these behaviours have long been recognised as an integral part of DFV, criminal justice responses have traditionally focused on physical violence.

There is growing momentum across Australia and internationally to consider new offences to criminalise coercive and controlling behaviours that are not covered within existing criminal offences. In jurisdictions where such offences exist, feedback has stressed the importance of the implementation process to ensure the offences operate effectively within the community. Key implementation measures include community awareness raising, education and training for the legal and DFV service sectors, and services for victims/survivors and perpetrators.

Currently, coercive control is not a specific criminal offence in South Australia. However, given the recent focus on this issue, the Attorney-General's Department is currently considering what implementation processes would be needed should coercive control be criminalised in South Australia.

I encourage you to consider the questions in this discussion paper and have your say to help us improve the safety and wellbeing of South Australian DFV victims/survivors and their children.



Caroline Mealor  
Chief Executive,  
Attorney-General's Department

## Introduction

Consultation on a proposed South Australian offence of coercive control was conducted during September and October 2021. There were 173 respondents to a public survey, with more detailed submissions received from 31 individuals and organisations.

The feedback noted the importance of the implementation process. Suggestions included training for enforcement agencies to identify, charge and prosecute coercive control, a public awareness campaign, wrap-around support services for victims/survivors and counselling and treatment services for perpetrators. Respondents also advocated a focus on regional and remote victims/survivors, Aboriginal<sup>ii</sup> people, and the migrant community.

This discussion paper seeks feedback on proposed implementation measures. We seek your views on this approach and any other feedback you may have on how to support implementation of a coercive control offence, should it be introduced.



## How to make a submission

Submissions in response to this discussion paper can be made until 1 April 2022. Individuals and organisations can make a submission (confidentially if desired) by email to [agdpolicyandanalytics@sa.gov.au](mailto:agdpolicyandanalytics@sa.gov.au).

This discussion paper poses a number of questions. You may respond to all questions, or only those that are of interest to you. You may also raise any additional relevant matters.

## What is coercive control?

Coercive control has not been officially defined in South Australia. It is understood to be an insidious form of DFV that involves tactics of emotional and mental abuse which undermine the victim's autonomy and sense of identity. Coercive and controlling behaviour may include isolating a person from their friends and family, controlling finances, controlling what a person can or can't say, controlling what a person can wear, when they can sleep, what they can eat and when they can leave the house. The NSW Parliament Joint Select Committee on Coercive Control inquiry heard that "victims/survivors often describe it as more harmful and long-lasting than physical abuse. Respondents spoke of the 'isolation, subordination, humiliation and loss of liberty occasioned by coercive control' and noted that it has been linked to psychiatric outcomes including suicidality, depression and post-traumatic stress disorder".<sup>iii</sup>

Disturbingly, coercive control is also a common factor in intimate partner homicides, even though this type of behaviour does not always involve physical violence. Analysis undertaken by the NSW Domestic Violence Death Review Team identified that, among 112 incidents of intimate partner homicide between June 2000 and July 2021, coercive control was a feature of the relationship in all but one case. A number of these cases did not have any evident history of physical abuse.<sup>iv</sup>

Despite the significant harm caused by coercive and controlling behaviours, victims/survivors are unlikely to seek help if they had not also experienced physical or sexual forms of abuse. They may be prevented from seeking help because the perpetrator isolates them from friends and family and restricts access to the phone and internet.<sup>v</sup> Some victims/survivors may not believe they are experiencing violence, or minimise their experience, because non-physical violence has traditionally been viewed to be less harmful or traumatic than physical or sexual violence.<sup>vi</sup>

### Case Study - Robin<sup>vii</sup>

Robin has physical disability that affects her mobility and hands. Her partner started caring for her many years ago when there weren't many service options around. He tells Robin she does not have to worry about anything and that he can use her email address and phone to manage all her appointments and her finances for her. He does all her shopping for her online with her bank card and Apple Pay.

Early in the relationship Robin's partner sold their van that Robin relied on for accessible transport because he said her needs were expensive, so she

doesn't get to leave the house much. When Robin asks for a taxi or lift into town to see her sister, her partner calls her ungrateful and reminds her that none of her family are patient enough to deal with her like he is. They end up spending most days together and Robin will encourage him to purchase something special for himself the next time he goes shopping as a 'thank you'.

## Interstate and international approaches

In considering how to implement a new coercive control offence in South Australia it is helpful to look to the approaches taken in other Australian jurisdictions as well as overseas.

### Tasmania

Tasmania is the only Australian state to currently have legislated offences relating specifically to coercive control. In 2004, the Tasmanian Government passed the *Family Violence Act 2004* (Tas) introducing two new criminal offences – economic abuse (section 8) and emotional abuse (section 9). The Act was implemented alongside the Safe at Home Policy – a whole of government approach to coordinating criminal justice responses to DFV, with victim/survivor safety as the overarching goal.<sup>viii</sup>

Tasmanian coercive control offences have not been prosecuted often. In the 12 years after commencement to the end of 2017, 73 charges had been finalised with 40 convictions. Some explanations for the low number of prosecutions include resistance from the legal profession, difficulties in obtaining evidence (because it is often undocumented and occurs within a private setting with no independent witnesses), lack of community awareness and deficiencies in training and resources provided to police.<sup>ix</sup> These factors will be considered in the development of an implementation plan for South Australia.

### New South Wales

The New South Wales Government is currently considering the recommendations in the June 2021 report of the NSW Parliament Joint Select Committee on Coercive Control inquiry. The Committee recommended the criminalisation of coercive control and made a number of recommendations regarding the implementation of an offence.

Of note, the Committee recommended a considerable program of education, training and consultation with police, stakeholders and the frontline sector before the commencement of a criminal offence. The Committee also recommended awareness campaigns about coercive control as a priority, and consideration of improving resources for victim/survivor housing and legal services, and behaviour change programs for perpetrators.<sup>x</sup>

## England and Wales

The England and Wales *Serious Crimes Act 2015* introduced a new offence of 'controlling or coercive behaviour in an intimate or family relationship'. The legislation refers to coercive and controlling behaviour that is repeated or continuous, moving away from incident focused behaviour to a 'course of conduct'.<sup>xi</sup>

Training entitled Domestic Abuse Matters was delivered to 14 police forces in England and Wales in response to the criminalisation of coercive control. An evaluation of Domestic Abuse Matters conducted in 2020 found that targeted, in-person training, when supported through peer support networks and ongoing professional development, can assist officers to better understand, recognise and respond to signs of coercive control. Notably, the study found attendance at the coercive control training was associated with a 41% increase in arrests for coercive control, with this effect remaining for up to eight months after training was completed.<sup>xii</sup>

## Republic of Ireland

A coercive control offence commenced in the Republic of Ireland in January 2019. A person commits the offence if they knowingly and persistently engage in behaviour that is controlling or coercive and which a reasonable person would be likely to consider to have a serious effect on a relevant person.<sup>xiii</sup>

Of relevance to South Australia's implementation approach, the first conviction for the offence occurred in February 2020, more than one year after the offence commenced,<sup>xiv</sup> with lack of police training cited as one possible explanation for the delay. At the time of commencement, the Association of Garda Sergeants and Inspectors (AGSI) in the Republic of Ireland noted that its members had received no training in how best to enforce the new laws. AGSI called on the Garda Commissioner to prioritise training as a matter of urgency, stating "appropriate training delivered in advance of legislation being implemented will ensure the public receive the best possible policing service."<sup>xv</sup>

## Scotland

The Scottish *Domestic Abuse Act 2018* commenced in 2019. The Act criminalises a course of abusive behaviour by a perpetrator against their current or former partner. The offence is treated as aggravated if the behaviour is directed at a child or they make use of a child as part of the course of abusive behaviour.<sup>xvi</sup>

The Scottish experience is instructive for South Australia. In addition to protection under the law, a broader systemic response was implemented, including increased investment in police training, a community awareness program and training for other professionals involved in the system such as prosecutors, lawyers and judges.

The intensive police training conducted in the lead up to the commencement of the legislation included how to identify coercive and controlling behaviours, understanding and awareness of the dynamics of DFV and perpetrator tactics used to manipulate victims/survivors and first responders. The training was delivered as an interactive online learning package, with additional training for the police leadership and attitudinal change champions.<sup>xvii</sup>

In the first year of operation, 246 people were prosecuted and 206 (84%) were convicted of the offence.<sup>xviii</sup> This is a sharp contrast to the Republic of Ireland which had no convictions in the first year.

## **Coercive control implementation considerations**

The following four areas have been identified to support a coercive control criminal offence, if it were to be introduced:

1. Awareness raising and engagement
2. Education and training
3. Supports and services for victims/survivors
4. Appropriate responses to and for perpetrators

The experience of coercive and controlling behaviours can be vastly different for DFV victims/survivors from CALD, Aboriginal and LGBTIQ+ communities, victims/survivors in remote and regional areas, elderly victims/survivor, and those living with disability. There can be a fear of discrimination and of not being believed, previous negative experiences in accessing services or reporting to police, cultural barriers, and isolation from appropriate supports. For this reason, implementation should also include a focus on inclusivity and the special needs of diverse and vulnerable groups.

The feedback received also stressed the importance of involving victims/survivors of DFV in any implementation process. To achieve this, victims/survivors of DFV will be separately engaged to provide a voice of lived experience.

## **Awareness raising and engagement**

Coercive control is a complex concept, challenging many existing beliefs and attitudes about DFV, such as the view that it consists only of physical violence. Overwhelmingly, feedback received indicated low awareness of coercive control in the South Australian community, and the need for awareness campaigns to increase understanding and encourage victims/survivors to come forward.

## Current initiatives

In South Australia, a number of campaigns have successfully raised community awareness of DFV. Using Snapchat, Instagram and TikTok, the Break the Cycle Campaign raised awareness of the different forms of abuse and told people how to get support in the first wave of COVID-19.

The Break the Cycle website was launched in June 2020 as a one-stop-shop for all DFV information in South Australia. It provides information and resources for victims/survivors and perpetrators, including topics on coercive controlling behaviours such as emotional, verbal, psychological and financial abuse. Support materials available on the website have also been translated into 25 languages.

A second Break the Cycle campaign ran between July and September 2021, on television, radio, digital and social media platforms. For the first time, QR codes were included on print advertising, allowing quick and direct access to support networks if needed.

The *See it for what it is: Stop Sexual Violence* campaign was also launched at the end of 2020. The campaign was notable for its use of the dating app Tinder to send out the message that all forms of violence are unacceptable and there is help available.

In addition to media campaigns, the *Keeping Safe: Child Protection Curriculum* child safety program is provided to children and young people from age 3 to year 12. The program teaches children to recognise abuse and understand ways of keeping themselves safe. The curriculum includes content relevant to coercive control such as:

- healthy and unhealthy relationships and the representation of relationships within popular media
- the social construction of gender, gender stereotypes and expectations
- the types of power and the way power is used in different contexts.

## Options to target coercive control

The Legal Services Commission has been allocated additional funding of up to \$507,500 over two years to support coercive control initiatives, including \$50,000 to develop a community awareness campaign in 2022. The campaign will provide the following information:

- i. what are coercive control behaviours and how to identify them
- ii. where to get help, including crisis support services, social support services (including legal services)
- iii. any other information that may be relevant for the purpose of raising awareness.

Recognising the diversity of languages and cultures across South Australia, information about coercive control and the new offences will be provided on multiple platforms, including social media, and in a range of formats and languages. Consideration also needs to be given to the provision of information to people living with disability.

This discussion paper seeks feedback on how we can ensure all communities in South Australia receive this important information.



### Questions:

1. What are the key messages that should be communicated about coercive control?
2. What are the best mediums to communicate information about coercive control to your community?

### Case Study - Zara<sup>xix</sup>

Zara has been with Adam for over two years. At the beginning of their relationship they were very social, and often spent time with friends, family and colleagues. However, over time, things started to change. Adam started to monitor her whereabouts. He would get upset if she didn't constantly check in with him ... He didn't like her going out with friends because he didn't want her to talk to other men.

He would make comments about her appearance and tell her that she should be grateful to have him because no one else would want her. ... He became controlling over what she wore and wouldn't let her wear certain clothes because he didn't want other men looking at her.

Over time, Zara stopped seeing her friends and rarely saw her family. ... She stopped speaking to her colleagues at work and stopped going on work trips or nights out. She was afraid Adam would be angry if he found out she was talking to them because he said he didn't like them and said she shouldn't spend time with people like that. She felt anxious, depressed and constantly on edge. She felt like she was walking on egg shells and worried about upsetting Adam. She didn't want to tell her friends or family because she worried they wouldn't believe her. She

thought that since he wasn't physically violent, then it must not be that bad.

### Education and training for first responders, the legal sector and service providers

A common theme in the feedback received was the importance of education and training about coercive control. Some respondents felt the South Australian legal response focused on physical violence and lacked an understanding of the nature of coercive control and the harms it can cause. Research papers on coercive control also note the need for education and training to be delivered beyond the legal sector (police officers, prosecutors and judicial officers), to emergency workers and workers in DFV services, health care, housing, education and child protection sectors.<sup>xx</sup>

### Current initiatives

DFV related training and education for the justice sector is currently conducted within SA Police and the Courts Administration Authority.

SA Police has a raft of training and practices designed to enhance the policing response to DFV. SA Police policies provide guidance for frontline officers about the management of a DFV incident, and the gathering of available physical evidence. This includes preserving the scene of a crime, undertaking investigations, identifying all relevant witnesses, and instigating prosecutions and intervention orders.

The Magistrates Court holds Judicial Education Days four times per year, and an annual *All Courts Judicial Development Day*. In July 2020, award winning author and investigative journalist Jess Hill, author of *'See What You Made Me Do'*, gave a presentation to all Magistrates entitled *'Power, Control and Domestic Abuse'*, focused on understanding coercive control, its characteristics and impacts. The session discussed approaches and strategies to appropriately obtain evidence from a person seeking, or protected by, an Intervention Order who has been subjected to coercive control and to assist in identifying within a courtroom setting whether an applicant for an Intervention Order may have been a victim/survivor of coercive control.

Beyond the justice sector, the Department of Human Services has funded *No to Violence* to deliver workforce development sessions four times per year to frontline case workers providing support outside the DFV sector, for example, health workers or drug and alcohol workers. The sessions will help caseworkers to identify DFV perpetrators in the course of their work and respond appropriately.

### Options to target coercive control

Additional funding of up to \$507,500 over two years has been allocated to the Legal Services Commission for coercive control initiatives, including funding to engage with and educate health and welfare professionals on signs of coercive control in patients and clients, with referral to relevant legal assistance providers where appropriate. This engagement will also extend to other professions, such as the South Australian Hair and Beauty Association which is the professional body for hairdressers and beauticians.

In relation to training of the justice sector, a new coercive control offence would require changes in approach to both the investigation and prosecution, for example, identifying and gathering evidence for a course of conduct rather than a single incident.<sup>xxi</sup> The intensive police training process conducted in Scotland in the lead up to the commencement of their coercive control legislation is often cited as best practice.

There is also a need for extensive training on the nature of coercive and controlling behaviour and the different ways victims/survivors may respond to trauma. Research and inquiry submissions have reported concerns about possible unintended consequences of criminalising coercive control. A key concern identified is the potential for manipulation by or misidentification of the perpetrator when police first arrive at a crisis situation, leading to the victim/survivor being identified as the primary aggressor.<sup>xxii</sup> Training should include a focus on how to avoid any potential unintended consequences of the new offences.<sup>xxiii</sup>

We heard that training should be developed by experts in DFV including people with lived experience and include information about the precursors of DFV, gender-based violence, the experiences of DFV across different groups within the community, such as the LGBTIQ+ community, people with disabilities, CALD communities, the elderly, and Aboriginal peoples, how victims/survivors may respond to trauma and how perpetrators may respond to intervention. Regular refresher training should also be provided to ensure the lessons are reinforced over time and new information/approaches are communicated.

As a first step, this discussion paper seeks feedback on the current DFV education and training available and whether there any gaps in relation to coercive control. This information will help us to identify additional education and training modules that might be needed to improve understanding of and responses to coercive control and DFV in general. It will also ensure we build on the extensive education and training already provided and avoid duplication.

### Questions:

3. How is coercive control understood by you and more broadly within your community?
4. If it were made an offence, what might this mean to you and the people around you?
5. If you were concerned about the use of coercive control as an individual, or on behalf of someone else, what systems and services would you approach for support or advice?
6. What education and training is needed to improve the justice sector's understanding of coercive control and detect, investigate and prosecute coercive control appropriately?
7. What education and training is needed for organisations that work with victims/survivors and perpetrators of coercive control e.g. in health, housing, education, etc.?

### Support services for victims/survivors

The feedback received suggested the need for increased support services to DFV victims/survivors, including emotional support services and practical assistance such as accommodation services.

### Current services for DFV victims/survivors

Since 2019 the Commissioner for Victims' Rights has been the central point of contact for victims/survivors, to coordinate their access to services and to support them to navigate the criminal justice system. Additionally, a new Victims Of Crime SA website was launched in October 2020 which brings together information for victims/survivors, including what to expect in the criminal justice process and information about support services. This information is also published in the *'Information for Victims of Crime'* booklet which is disseminated by SA Police upon first contact with victims/survivors.

A range of services and supports are available to victims/survivors of DFV. Supports include crisis support, legal assistance, and help to navigate through the criminal justice system – from initial report and investigation to court support, victim impact statements and counselling, to parole and victim/survivors safety planning.

Information about specific DFV and sexual assault support services is available from [www.sa.gov.au](http://www.sa.gov.au).

### **Recent initiatives include:**

Opening of the seventh women's safety hub located in Whyalla, adding to existing regional hubs reaching from Mount Gambier to Berri and Port Augusta. Hubs are tailored to each region, with all providing information and referrals for DFV support, housing, police and legal matters, family intervention, financial counselling, mental health medical services or drug and alcohol services. Most also offer private drop-in spaces with phone or computer access – a vital service for women who are not able to freely seek information or access services in their own home.

31 new crisis accommodation beds for South Australians impacted by DFV across Adelaide and the regions, including 17 in regional areas in Limestone Coast, Murray Mallee and Eyre and Western.

The *Supporting Parents' and Children's Emotions Program*, which provides early intervention support to young parents aged between 12 to 25 years, who are experiencing or perpetuating DFV. The program is run through the Women's and Children's Health Network, as a specialised add-on to its *Young Parents Program*.

Additional funding to the *Domestic Violence Disclosure Scheme* (DVDS) to mid-2024. The DVDS is a free and confidential online application to help people at risk find out if their partner has a history of violent offending or other relevant information, such as previous intervention orders. Persons feeling at risk are also connected with specialist DFV support, whether or not there is information for police to disclose, providing help to make an informed safety plan. Further expanding the scheme from a 'Right to ask' to a 'Right to know' model is also being explored.

Funding in the amount of \$603,000 has been provided to the Department for Correctional Services (DCS) to keep high risk victims/survivors of DFV informed of changes to the circumstances of their perpetrator who is in the custody or under the supervision of DCS.

### **Options to target coercive control**

Increased awareness of coercive and controlling behaviours will likely have an immediate impact on DFV and legal service providers.

Women's Safety Service (SA) (WSSSA) is funded to operate the 24/7 Domestic Violence Crisis line, which provides information and advice and support to develop a safety plan. Additional funding of \$600,000 has been provided to WSSSA to enhance its existing service to include a quick response coercive control assessment, and to provide information and referral to other support services.

The additional funding to WSSSA includes \$3,000 to develop a new (or amend the current) risk assessment tool to assess the coercive control risk factors of persons who contact the Crisis Line. The new tool will link with the existing common DFV Risk Assessment form, which has been used by government and non-government agencies since 2014 to determine the current level of risk to a victim/survivor and any children, and to guide decision making on the type and urgency of response required. The use of a common, agreed risk assessment means that all agencies have a uniform understanding of risk factors and risk levels, to better inform responses and support.

One of the legal remedies to support victims/survivors to mitigate or address coercive control behaviours is an Intervention Order. Victims/survivors can apply to the court to prohibit the perpetrators from engaging in coercive or controlling behaviours against them. All community legal assistance providers, such as the Aboriginal Legal Rights Movement and Women's Legal Service SA, can support an individual seeking an intervention order.

The Women's Domestic Violence Court Assistance Service (WDVCAS) is a statewide free legal assistance service

run by the Legal Services Commission, dedicated to supporting women to navigate the Magistrates Court process of applying for, varying or revoking an Intervention Order. Additional funding of up to \$507,500 over two years has been allocated to the Legal Services Commission for coercive control initiatives, including funding to increase the capacity of WDVCAS to assist victims/survivors experiencing coercive control.

Properly addressing coercive control requires services to be easily accessible and visible via strong referral pathways and no red tape or duplication. This discussion paper seeks feedback on current services, including DFV services, available and their ability to respond to victims/survivors of coercive control. This information will help us to map existing services, to determine gaps, duplications and opportunities for improvements.

### Questions:

8. What types of coercive control services should be prioritised?
9. Are there any gaps in the services currently available to victims/survivors of coercive control?
10. Are there any current specialist and mainstream service providers that could improve and/or tailor their current services for victims/survivors of coercive control?

### Case Study - Sanaya<sup>xxiv</sup>

Sanaya married when she was 18 and came to Australia with her husband and young child. Sanaya's husband tells her



negative stories about other women and communities and insists Sanaya stay away from other mums who talk to her at school drop off and pick up. When Sanaya started her first job she was told to quit after only a few months. Her husband said she was failing as a mother and had abandoned their child. Now, when Sanaya goes out, her husband encourages her to send happy selfies of herself and their child to verify her location. Sanaya is aware that he uses her phone to track her location. When Sanaya arrives home, she feels interrogated about where she's been and who she's spoken with, so she prefers to only go out as a family to avoid confrontation.

### **Appropriate responses to and for coercive control perpetrators**

The feedback received noted the need for counselling and treatment services for perpetrators of coercive control. Respondents suggested that some perpetrators may have a lack of understanding about the seriousness and impact of their behaviour.

### **Current services for DFV perpetrators**

There are a range of services available to the Court and in the correctional system which provide therapeutic intervention to perpetrators of DFV. There is also a dedicated phone line where perpetrators, frontline workers and friends, family and community members can call when they are concerned with the perpetrator's use of violence.

Under section 13 of the *Intervention Orders (Prevention of Abuse) Act 2009*, the Magistrates Court can mandate assessment for and participation in an Abuse Prevention Program (APP) for alleged DFV offenders either as a condition of bail or an Intervention Order. During 2020-21 there were 706 referrals to the APP. Approximately \$668,400 per year is provided by the Courts Administration Authority to run:

- face-to-face group counselling.
- weekly individual counselling for men who are not considered suitable for group participation. This includes men with cognitive impairment or low levels of English language proficiency.
- a culturally safe program for Aboriginal men.

The Department for Correctional Services operates five programs targeting perpetrators of DFV, at a cost of \$9 million per year. These are:

- *The Domestic and Family Violence Intervention Program* and the culturally responsive *Aboriginal Men's Family Violence Program*.
- A suite of Violence Prevention programs (VPP) targeting perpetrators of violent offending, such as gang violence, homicide, kidnapping and armed robbery. Each of these programs includes a focus on identifying and challenging attitudes supportive of DFV and the dynamics of intimate partner violence. The VPP for Aboriginal men includes a co-facilitation model where Aboriginal staff deliver the program alongside clinical staff from

the DCS Rehabilitation Programs Branch.

- *The Cross Borders Indigenous Family Violence Program (CBIFVP)* operates as a tri-state partnership between South Australia, Western Australia and the Northern Territory, with funding contributed from the Australian Government. The CBIFVP receives referrals from police, courts and corrections for men who live in remote Anangu Pitjantjatjara Yankunytjatjara or Ngaanyatjarra Pitjantjatjara Yankunytjatjara communities. The program aims to reduce the incidence of DFV through culturally responsive approaches, including delivering in local language, having a cultural broker present, and challenging attitudes and behaviours in culturally appropriate ways.

## Further considerations

Controlling behaviour is recognised as a foundational aspect of DFV and it is likely that it is already addressed, at least to some extent, in current perpetrator programs. It is noted, however, that the primary trigger for entry to these programs is physical violence or threat. Counselling and treatment programs aimed specifically at coercive control perpetrators who do not use physical violence may be a useful addition to the current suite of perpetrator responses.

This discussion paper seeks feedback on existing perpetrator services and programs. This will enable us to determine opportunities for improvements in the context of coercive control.

### Questions:

11. What types of perpetrator services should be prioritised?
12. Are there any gaps in the services currently available to perpetrators of coercive control?
13. Are there any current specialist and mainstream service providers that could improve and/or tailor their current services for perpetrators of coercive control?

### General questions:

14. Is there anything else that should be considered as part of implementing a criminal offence relating to coercive control?

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<sup>i</sup> ABS Recorded Crime Victims 2020

<sup>ii</sup> In South Australia, Aboriginal is used to describe Aboriginal and Torres Strait Islander peoples.

<sup>iii</sup> Coercive control in domestic relationships Parliament of New South Wales Joint Select Committee on Coercive Control Report 1/57 June 2021 p 15. Report - coercive control in domestic relationships.pdf (nsw.gov.au)

<sup>iv</sup> NSW State Coroners Court 2020

<sup>v</sup> Boxall H & Morgan A 2021. *Experiences of coercive control among Australian women*. Statistical Bulletin no. 30. Canberra: Australian Institute of Criminology. <https://doi.org/10.52922/sb78108>

<sup>vi</sup> ANROWS , Attachment 1, Policy Brief: Defining and responding to coercive control, p2 in Coercive control in domestic relationships, Submission 96 to Parliament of New South Wales Joint Select Committee on Coercive Control Report 1/57 June 2021 p 3. Report - coercive control in domestic relationships.pdf (nsw.gov.au)

<sup>vii</sup> Case study provided by Disability Advocacy and Complaints Service of South Australia Inc. The case study has been de-identified and formulated for the purpose of this discussion paper and is representative of common lived experiences

<sup>viii</sup> Australia's National Research Organisation for Women's Safety. (2021). Defining and responding to coercive control: Policy brief (ANROWS Insights,01/2021). Sydney: ANROWS. p 4

<sup>ix</sup> Qld Women's Safety and Justice Taskforce: 1 Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p 36

<sup>x</sup> Coercive control in domestic relationships Parliament of New South Wales Joint Select Committee on Coercive Control Report 1/57 June 2021. pp xiv to xvi Report - coercive control in domestic relationships.pdf (nsw.gov.au)

<sup>xi</sup> Australia's National Research Organisation for Women's Safety. (2021). Defining and responding to coercive control: Policy brief (ANROWS Insights,01/2021). Sydney: ANROWS. p 5

<sup>xii</sup> Qld Women's Safety and Justice Taskforce: 1 Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p39

<sup>xiii</sup> Qld Women's Safety and Justice Taskforce: 1 Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p37

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<sup>xiv</sup> Australia's National Research Organisation for Women's Safety. (2021). Defining and responding to coercive control: Policy brief (ANROWS Insights, 01/2021). Sydney: ANROWS. p 6

<sup>xv</sup> <https://www.irishtimes.com/news/crime-and-law/call-for-more-garda-training-to-enforce-new-domestic-violence-laws-1.3752299> in ibid 6

<sup>xvi</sup> Australia's National Research Organisation for Women's Safety. (2021). Defining and responding to coercive control: Policy brief (ANROWS Insights, 01/2021). Sydney: ANROWS. p 6

<sup>xvii</sup> Qld Women's Safety and Justice Taskforce: 1 Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p 39

<sup>xviii</sup> Scottish Government 'Criminal Proceedings in Scotland, 2019-20', A National Statistics Publication for Scotland, ISBN:9781800049628, 18 May 2021, 4 in ibid Qld Women's Safety and Justice Taskforce: 1 Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p 36

<sup>xix</sup> Think Business, Think Equality, Domestic Abuse Case study: Coercive control ([thinkbusinessthinkequality.org.uk](http://thinkbusinessthinkequality.org.uk))

<sup>xx</sup> Coercive control in domestic relationships Parliament of New South Wales Joint Select Committee on Coercive Control Report 1/57 June 2021. pp xiv to xvi Report - coercive control in domestic relationships.pdf ([nsw.gov.au](http://nsw.gov.au))

<sup>xxi</sup> Qld Women's Safety and Justice Taskforce: 1 Options for legislating against coercive control and the creation of a standalone domestic violence offence Discussion Paper 1 p 36

<sup>xxii</sup> Push to criminalise coercive control in relationships sparks concern for migrant and refugee women ([sbs.com.au](http://sbs.com.au))

<sup>xxiii</sup> Why we need a thorough consultation process on how to effectively address coercive controlling violence ([wlsnsw.org.au](http://wlsnsw.org.au))

<sup>xxiv</sup> Case study provided by Disability Advocacy and Complaints Service of South Australia Inc. The case study has been de-identified and formulated for the purpose of this discussion paper and is representative of common lived experiences

# **Discussion Paper: Implementation of coercive control offences in South Australia**

Overview of submissions

May 2022

Released by AGD, under the FOI Act 1991 (SA)



Government of South Australia  
Attorney-General's Department



## Introduction

The Discussion Paper: Implementation of coercive control offences in South Australia was released for public consultation on 2 February 2022, to obtain feedback on fourteen questions under the themes of awareness raising, education and training, services for victim-survivors and responses to perpetrators. The consultation period closed on 1 April 2022.

The Attorney-General's Department received 22 submissions from a broad range of agencies and organisations, including general support services for victim-survivors and perpetrators, legal assistance services, advocacy groups, an academic and interested individuals.

This report provides an overview of the feedback received in response to the questions, as well as additional issues raised by respondents.

Released by AGD, under the FOI Act 1991 (SA)

## Awareness raising

*"Awareness raising and community understanding of the nature of coercive control is fundamental to the successful implementation of any legislation."*

Respondents were supportive of a strong community awareness campaign for coercive control in conjunction with the introduction of a criminal offence. Respondents noted the need for the community to have a greater understanding of coercive control, to be able to recognise these behaviours and respond appropriately.

Three key messages that respondents said should be communicated as part of any such campaign were:

- What is coercive control and what does it look like
- The serious impact of coercive control can have on the health, emotional and psychological wellbeing of victim-survivors
- Appropriate responses to coercive control victim-survivors and perpetrators.

Important messages about the nature of coercive control included:

- It is a pattern of behaviour over time rather than a single incident
- It is a key component of domestic and family violence
- It is a significant issue in Australia and prevention and response is everyone's responsibility
- It presents in many forms beyond physical aggression, and the behaviours may change over time. It may include subtle behaviours, or behaviours that may not be obvious to an external party but have a coded meaning for victim-survivors. Some groups may also experience specific forms of coercive control, such as spiritual abuse for Aboriginal peoples, threats regarding immigration status for women on temporary visas, and denial of reproductive and sexual rights for persons living with disability.
- It can occur in different types of relationships beyond intimate partners, for example, control over a parent or of a child, between extended family members or in non-familial caring relationships
- It affects both current and former relationships, often extending beyond separation
- Some people or groups can be more vulnerable to experiencing coercive control including Aboriginal women and children, people with disability, pregnant women, women with children, and older people
- Not all victims-survivors may describe that they are being coerced.

*"I didn't fully comprehend the damage and destruction that coercive control does to you until I left the marriage. Whilst still in the marriage it was just get through the days, keep the peace, love and care for our children, be a good wife ... but just keep quiet."*

It was consistently reported that coercive control community awareness campaigns should include all forms of media and be available in multiple languages and accessible formats to capture different audiences. Specific suggestions included:

- Social media
- Television
- Radio, including community radio
- Digital platforms
- Bus stops
- Billboards
- Flyers and information available at pubs and events such as music festivals and major sporting events
- Community education delivered through community service organisations, sporting clubs, council groups and community centres
- Community speaking platforms for victim-survivors to share their lived experience.

## Education and training

*"Any law to criminalise coercive control will only be as effective as those who enforce, prosecute, and apply it. Improving these practices through education and training and embedding best practice and expertise in domestic and family violence and disability in the courts is as important as creating the new offence."*

Respondents consistently called for education and training on domestic and family violence including coercive control, across the whole justice sector. Respondents said that education and training should be evidence-based, co-designed with victim-survivors, and trauma informed. It should also incorporate cultural considerations for diverse, vulnerable or marginalised communities. Suggested topics included:

- How to recognise coercive control
- How to respond to a victim-survivor in a trauma informed manner, including victim-survivors from vulnerable or diverse groups
- How to provide appropriate referrals to support services and responses to perpetrators to keep victims safe
- For police – how to gather evidence specific to coercive control matters.

Respondents also commented that education and training on coercive control should be delivered to a broad range of professions outside of the justice sector, including those who do not necessarily encounter domestic and family violence victim-survivors or perpetrators on a regular basis. Suggested topics were similar to those for the justice sector, such as identifying coercive control and responding appropriately when abuse is suspected.

*"...any evidence-based training should encourage critical, reflective awareness of the beliefs and subjectivities officers hold and the impact these have on the judgements they may make regarding victims and cases."*

## Services for victim-survivors

Respondents noted gaps in, and / or the need to prioritise, the following services for victim-survivors of domestic and family violence, including coercive control:

- Legal assistance
- Psychological support
- Financial advice
- Services for male victim-survivors
- Services to assist victim-survivors to leave abusive relationships
- Pre and post court appearance support
- Responses outside of the criminal justice system such as mediation between victim-survivors and perpetrators
- Recovery services – to rebuild confidence and self-esteem.

In general, respondents indicated existing specialist and mainstream services could improve and/or tailor their current services for victim-survivors of coercive control, with adequate supports.

## Responses to perpetrators

Respondents reported a critical need to expand the availability of Men's Behaviour Change Programs, and ensure they have the capacity to implement risk assessment and risk management processes. It was suggested that South Australia does not have sufficient perpetrator services, with significant gaps for perpetrators of all forms of violence and control and a wait time of up to six months to enter a behaviour change program. Early intervention responses, programs for young perpetrators aged 18 to 25 years and programs for men who use coercive control without violence were also highlighted as necessary.

## Inclusive and accessible responses

A strong theme throughout most submissions was the need for awareness campaigns, education and training, and service responses to reflect all South Australians. Specifically, services and responses should be inclusive of, or tailored to, the needs of:

- Aboriginal and Torres Strait Islander peoples and Nations
- culturally and linguistically diverse communities
- people living with disabilities
- LGBTQIA+ peoples
- older persons
- people living in rural, regional and remote communities.

## Coercive control legislation

While the focus of the Discussion Paper was on the implementation of coercive control offences, several respondents commented on the definition of coercive control in legislation, as well as potential benefits and concerns regarding the criminalisation of this behaviour.

A number of submissions called for a clear definition of coercive control, to enable a shared understanding of the behaviour and appropriate responses.

It was also suggested that legislation should reflect the unique and specific forms of abuse experienced by different cohorts and the range of tactics used by perpetrators in different contexts. Several respondents called for intensive consultation prior to the formalisation of any offence.

The reported benefits of criminalising coercive control were that:

- It recognises the seriousness of behaviour and that perpetrators can be held accountable
- It will allow victim-survivors to be heard and have experiences validated
- It will provide greater access to enhanced legal, economic and other systemic protections.

*"I believe if it were an offence the offender in my situation would have been charged and would have been forced to stop the behaviours, although if he chose to continue along the coercive control behaviours, I would have had more protection for my wellbeing and safety through police having the ability to apprehend the perpetrator."*

Respondents also raised the following concerns:

- Possible harmful unintended consequences for victim-survivors, particularly those disproportionately represented in the criminal justice system, including the misidentification of victims of long-term significant violence as the primary aggressors.

*"The risk of disproportionate criminalisation / incarceration of perpetrators from these groups, and compounding of cascading risk (e.g. loss of housing, child protection interventions, loss of income support) needs to be considered prior to criminalisation of coercive control and implementation of legislation."*

- It may be difficult to successfully establish an offence, and victim-survivors may face the distressing experience of giving evidence with a slim possibility of a meaningful result.

## Next steps

The South Australian Government has committed to criminalising coercive control to prevent and end this form of violence, as part of the Women: Safety, Wellbeing, Equity policy.

The Discussion Paper submissions will be considered in the future development of coercive control legislation and in a comprehensive implementation plan to ensure the safety of victim-survivors and appropriate responses to perpetrators.



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