

Discussion Paper: Implementation of coercive control offences in South Australia

Summary of submissions

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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.

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

<i>“Coercive control needs to be understood by what it takes away or how it makes you feel... “</i>

- **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.

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.