

Discussion Paper: Implementation of coercive control offences in South Australia

Overview of submissions

May 2022



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.

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.

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 gaps for perpetrators of all forms of violence and control and long wait times 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 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.