

# Options for legislating against coercive control

*A response to the Queensland Women's Safety and Justice Taskforce Discussion Paper 1*

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The Australian Psychological Society Ltd  
Level 11, 257 Collins Street  
Melbourne, VIC 3000  
Phone: 03 8662 3300  
Email: [Policy@psychology.org.au](mailto:Policy@psychology.org.au)  
Web: [psychology.org.au](http://psychology.org.au)  
ABN 23 000 543 788

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*We acknowledge the Traditional Custodians of the lands and seas on which we work and live, and pay our respects to Elders, past, present and emerging, for they hold the dreams of Indigenous Australia.*

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# Introduction

The Australian Psychological Society (APS) is the peak professional body for psychologists in Australia, representing over 27,000 members nationally. A number of our psychologists work with people who use and experience coercive control on a daily basis - in a range of settings.

The APS welcomes the opportunity to respond to the *Women's Safety and Justice Taskforce Discussion Paper 1* and the considerations of options for legislating against coercive control and the creation of a standalone domestic violence offence. This area requires social and legal reform as the psychological impact of coercive and controlling behaviours is devastating to victims<sup>1</sup>. Regulation is challenging to enforce though, as coercive and controlling behaviour is difficult to define and is contextual in nature. For these reasons, codification of this behaviour needs to be carefully considered.

The APS commends the recent agreement of the Meeting of Attorneys-General (MAG) to co-design common, national principles to build a consistent understanding of, and approach to, coercive control (Meeting of Attorneys-General, 2021). The development of national principles on addressing coercive control is an important step towards increasing community understanding, improving opportunities for prevention and early intervention, and potentially enhancing outcomes for victims.

In principle, while there may be benefits in codifying coercive control, questions remain about the readiness of the legal system and broader social systems to do so. Therefore, rather than taking a particular position regarding whether or not the APS supports codification, the APS has outlined key considerations to inform the discussion from a psychological perspective.

The APS suggests that ongoing discussion regarding the criminalisation of coercive control needs to consider current research into:

- The effectiveness of criminalisation nationally and internationally in decreasing the incidence of coercive control and increasing the safety of those who experience it, and
- Understanding perpetrator typology and patterns of coercive behaviour.

The APS acknowledges the current debate in the scientific literature and *The Discussion Paper* regarding the gendered nature of coercive control. Although the vast majority of reported cases are a man perpetrating coercive control over a woman, there are exceptions whether they be in same-sex relationships or female perpetrators (Joint select committee on coercive control, 2021). It is because of these exceptions, that the APS submission is written in a gender-neutral format (see also Warren, 2021).

The APS believes that the current discussion around codifying coercive control indicates an increased understanding of the complexity of the dynamics of domestic violence, in particular perpetrator behaviour and the impact on victims. Changes to legislation seeking criminalisation should be part of an integrated response including continuing community education and specific training for all relevant parties.

The skillset and expertise of members across Australia, including Queensland, means that the APS is well placed to support the implementation of the outcomes of the Women's Safety and Justice Taskforce consultation process, particularly in the areas of psychological assessment of victims and perpetrators, training of the Queensland Police and judicial personnel, as well as raising community awareness.

In developing the submission, the APS has selectively responded to the topics and questions raised in *The Discussion Paper* which have psychological implications for victims, perpetrators, or staff of the Queensland Police and judicial systems.

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<sup>1</sup> Please note that whilst we have used the terms perpetrator and victim this is to be consistent with *The Discussion Paper* and significant existing research evidence. In line with expert recommendations we advocate for the terms 'users' and 'experiencers' of coercive control instead.

## Executive summary

The aims of the Taskforce are laudable and the APS would be pleased to assist in the implementation of the outcomes of the consultation. The APS presents the following key considerations and recommendations to inform the current discussion from a psychological perspective:

- Create an **evidence-based definition** of coercive control to inform education programs and support measurement and evaluation of the effects of education and other interventions.
- Resource **community education**, and the use of **appropriate language to increase public awareness** to identify victims and direct them to appropriate support.
- Utilise **psychological assessment** to determine the efficacy of perpetrator behavioural change programs.
- Resource public services to provide support tailored to individual victim's risk profiles and personal circumstances, which is ideally **integrated and supplemented** by private services.
- Improve family and community outcomes by implementing **psychologically-informed training** programs, including exposure for court, justice, and police force personnel to the **lived experiences** of victims.
- Promote policing practices that **foster the empowerment of victims** to have agency over their situation.
- Expand the provision of day and night **online support services** for victims, particularly those in regional and remote areas and support for victims from **linguistically, culturally, and gender diverse** backgrounds.
- Enhance a **comprehensive co-response model** and shared information model which prioritises victim and family safety.
- Ensure gathering evidence and sentencing procedures take into account the **psychological impact** of both processes on those experiencing coercive control.
- Undertake **further research** into the effectiveness of coercive control legislative models.
- Support any changes to the current law with significant **police training**, increased **legal support for victims**, and improved resourcing for **family violence services**.
- Consider the **holistic impact** of any changes to legislation when measuring its 'success'.

# Context

## What is 'coercive control'?

The APS considers an appropriate definition of coercive control integral to any new legislation, and further, that it is recognised that this particular form of domestic violence is based on *a pattern of behaviour* that cannot be understood by considering individual incidents in isolation from each other. As noted in *The Discussion Paper*, the key to understanding coercive control is that it is a process or pattern of behaviour rather than isolated behaviours or incidents (Stark & Hester, 2019). It is critical to define and understand these damaging behaviors as in 99% of cases of intimate partner homicide, 'the relationship between the domestic violence victim and the domestic violence abuser was characterised by the abuser's use of coercive and controlling behaviours towards the victim' (Joint select committee on coercive control, 2021, p. 7). As described in the *Discussion Paper*, it may be difficult to demonstrate a clear pattern of coercion and control. Given the complex nature of this behaviour, the definition must take into account:

- That the 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 etc...) of a persistent and an emotionally abusive nature,
- The **impact** of the abuse on the victim (fear, isolation, loss of self-worth and dignity, loss of autonomy and capacity for decision-making etc...); and
- The **intention** or motivation behind the behaviour on the part of the perpetrator (physical coercion, isolation, degradation, intimidation, etc...).
- That 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,
- Situations where **psychological violence** is present without physical violence.

Each situation has to be examined separately and viewed through the lens of broad patterns of behaviours that include the communication of a threat with meaningful negative consequences of non-compliance, intense surveillance and prolonged efforts to wear down the victim's resistance. Perpetrators may exhibit nuanced behaviours that create doubt to an external party, but are coded to have a specific meaning for the victim (Streker, 2013). In addition, perpetrators often tailor their coercive behaviours to exploit specific vulnerabilities of their victims, which may diminish the victims' confidence in their own perceptions or accounts of reality. A thorough assessment is required to piece this complex collection of evidence together. Unlike single incident abuse, coercive control involves establishing patterns of sustained assault that include subtle behaviours, such as 'gaslighting' and neglect (Dutton & Goodman, 2005; Streker, 2013).

The APS notes the information provided in *The Discussion Paper* (pp. 11 – 13) about the context of coercive control and the categories and examples of coercive and controlling behaviours and risk factors. Other examples of coercive and controlling behaviours reported by our members who work with victims include:

- not being allowed to get up to a crying infant during the night,
- not being allowed to visit siblings,
- continuous text messages or calls regarding one's whereabouts and expected return home,
- not being allowed to drive, or to get a driver's licence,
- not being allowed to read certain books, or being made to read others,
- not being allowed to handle money, and
- being coerced or frightened into participating in sexual acts they do not wish to perform.

Categories and examples of behaviours can help to identify coercive control in some cases. Lists do not, however, capture the "process" of coercive control or those behaviours that appear insignificant or non-abusive to those outside an abusive relationship. For example, behaviour that might seem helpful in an ordinary relationship, such as using tracking apps to keep the family safe, can coerce and control in an abusive relationship.

Developing an appropriate definition of coercive control to be shared across contexts is a helpful first step for improving identification.

As noted in *The Discussion Paper*, there is no single agreed definition of coercive control. There is some consensus that the elements of an appropriate definition include:

- intentionality and motivation on the part of the perpetrator to have control over, or subjugate, the victim (Warren, 2021),
- the controlling and persistent behaviour is perceived as negative by the victim in that non-compliance with the perpetrator's demands (attempts to control) will be met with a negative consequence, and
- the perpetrator's ability to obtain and maintain control is linked to a credible threat of a meaningful negative impact for the victim (Hamberger et al., 2017; Walklate et al., 2019).

The psychological, behavioural and social processes that give rise to and perpetuate abusive relationships characterised by coercive control, and the challenges victims experience when seeking help need to be taken into account when examining coercive control. These aspects include the following:

- Psychologically, coercive control appears to be related to a sense of ownership, entitlement and control of the victim (Pitman, 2017; Stark & Hester, 2019). Victims comply with the perpetrators' demands to avoid psychological or physical repercussions for themselves and others, such as children. This strategy helps the victim survive and protect other vulnerable family members. It also reinforces the perpetrators' coercive behaviour patterns as they succeed at subordinating and controlling the victim.
- In the process of interacting with domestic violence supports and the justice system, the victims of domestic violence "learn" to tell their story using the language of trauma and personal growth. In doing so, they demonstrate to helpers and the community that they are "recoverable" and "worthy" of the resources and support they need to resist abuse and survive. This story re-frames a socio-cultural problem into a personal one focused on the victim's mental health and recovery (Sweet, 2019). While individuals receive and benefit from the supports received, conceptualising victims in this way limits understanding of the fundamental causes of coercive control and domestic abuse as grounded in socio-cultural issues and perpetrator attitudes and behaviours.

#### In summary the APS recommends:

- *Developing an evidence-based definition of coercive control, in conjunction with psychologists, as the basis for improving the identification of coercive control and any proposed new legislation.*
- *Evidence-based psychological, behavioural and social-cultural factors and processes must also be deeply considered when examining coercive control and the opportunities to improve identification and intervention at the individual and societal levels.*

## Part 1 – How is coercive control currently dealt with in Queensland

### Community attitudes

Community education about coercive control and its psychological, behavioural, and socio-cultural underpinnings, as discussed above, could help to improve community understanding and action. As noted in *The Discussion Paper* and the literature, some groups are especially vulnerable to coercive control due to risk factors such as economic inequality, disability, and cultural norms and biases (Stark & Hester, 2019). Community education should explicitly address coercive control for these vulnerable groups.

More documentaries about domestic abuse and coercive control could complement or form the basis of community education programs. Evidenced-based information could also be incorporated as an educational component of media stories about domestic violence or incorporated into the plots of popular entertainment shows. These representations in the media should not sensationalise or normalise this coercive control or other forms of domestic abuse.

The language used to communicate the impact of coercive control on victims is particularly important for the following reasons:

- Language provides a way to articulate the behaviours and their impact which helps victim, perpetrator, and community understanding,
- Appropriate language corresponds to the seriousness of the impact of the behaviours on victims,
- Appropriate language cannot 'rationalise' or 'explain away' the behaviour of the perpetrator.

The term 'coercive control' is effective in that it starts to describe the *function* of the behaviours and the intent of perpetrators to control or subjugate the other (Warren, 2021). Changes to the term 'coercive control' may risk losing traction that has already been gained in community awareness. It is important to acknowledge, however, that not all victims may describe that they are being 'coerced'. The complexity of the dynamic and the behaviour of the perpetrator can be subtle to remove the autonomy of the victim over time. Recognising the persistent pattern of behaviour in the context of the relationship is key to identifying coercive control.

#### In summary the APS recommends:

- *Significant resourcing be made available for effective community education. This should include plain English and information in other languages about the evidence-based psychological, behavioural and social-cultural factors and processes associated with coercive control and the opportunities to improve identification and intervention at the individual and societal levels.*
- *Education must be inclusive of the experience of coercive control for those diverse and vulnerable groups. Media kits based on these educational resources can be developed inform the media and producers about appropriate ways to report on and represent coercive control in popular entertainment programming.*
- *Language should be appropriate to fittingly articulate the intent and impact of the behaviours.*

#### Mainstream Services

The APS acknowledges that not all victims of coercive control seek support from mainstream services for a multitude of reasons. As previously described, increased public awareness may assist victims to identify and articulate their experience and, in turn, seek help. Increased public awareness may also assist unrelated service personnel (hairdressers, real estate agents etc.) or mainstream medical (or otherwise) service providers to identify victims and know the best way to direct victims to receive appropriate support (Loke et al., 2012).

As regulated practitioners, APS members regularly work with victims of domestic violence to support them through each part of their experience. Victims may present to psychologists under the guise of other reasons such as seeking couples counselling, or may even be sent by the perpetrator to a psychologist because they are positioned as 'crazy' or 'depressed' by the perpetrator.

Similarly, a number of APS members also work with perpetrators to help identify their behaviours, their impact on victims and to work towards behavioural change. It is important to acknowledge that effective cognitive and behavioural change is not the same as merely attending a treatment program (see Frances et al., 1994). Thorough psychological assessment is required to determine whether any behavioural change program has been effective.

Mainstream services can be split according to public and private sectors each concentrating on particular risk profiles of victims and perpetrators. Typically, the public system is stretched to provide critical support for victim survivors who are in the highest risk categories. Importantly, violence is not the only risk factor, rather the *persistence* of the behaviours and their impact on victim survivors should be considered. Given the current resources, and the unfortunately high demand, the depth of support from publicly funded services is limited. The nature of coercive control means that many victims may not have access to the financial resources necessary to pay for services in the private sector. Ideally, a co-ordinated and integrated system would be available to victims, according to their personal risk profile and circumstances. This may include more resources being dedicated to public support systems.



Logically, the APS expects that if coercive control were to be criminalised, more victims would potentially be identified – increasing the need for psychological support services. It is imperative that the Queensland Government provide appropriate funding to for these services. However, given that this is a national issue, the APS suggests that the Federal Government also consider providing funding through the Medicare Benefits Schedule (MBS) to enable victims of coercive control to access an extended number of rebatable sessions - similar to the Eating Disorder Psychological Treatment MBS items.

APS psychologists play a key role in improving outcomes for those who use and experience coercive control. We suggest that this be extended to improving family and community outcomes by implementing psychologically-informed education, awareness and training programs and conducting appropriate research.

Given that victims may access assistance through a number of channels, it is important to:

- Provide education, and awareness training in coercive control for all front-line health workers as part of on-boarding (see Loke et al., 2012),
- Extend education and training for mental health workers and teachers, and
- Develop education and training programs as a prevention mechanism for the general public, schools, the police and other stakeholders.

#### **In summary the APS recommends:**

- *Increase education and public awareness for health service providers, community members and unrelated service personnel to help identify victims and direct them to appropriate support.*
- *Psychological assessment to determine the efficacy of perpetrator behavioural change programs.*
- *Well-resourced public services to provide support tailored to individual victim's risk profiles and personal circumstances which are ideally integrated and supplemented by private services.*

#### **Domestic and family violence service systems response**

The APS commends current policing practices that empower victims to decide, in consultation with attending police, what action they prefer to happen in the first instance. This may be moving the victim (and possibly children) to a safe location, unknown to the perpetrator, or removing the perpetrator from the family house. Collaborative decision making enables victims to be informed of the impact of their choices and be empowered to have agency over their situation (blue knot foundation, 2021). Empowerment is central to the core principles of trauma-informed practice to support the recovery of victims (Hopper et al., 2010).

Residents of regional and remote parts of Queensland face particular challenges when accessing domestic and family violence services. One positive outcome of the global COVID-19 pandemic is the familiarisation with technological solutions to service delivery. Opportunities such as day and night online zoom support for victims should be expanded and properly resourced. Online opportunities also may address some of the reported incidences of perpetrators not attending behavioural change programs because they are “inconvenient” or “too difficult to attend in person”.

The possible inequalities that can be seen in residents without internet access or who have limited digital literacy must be addressed. Similarly, linguistically, ability, and culturally diverse Queensland residents should be supported as they often represent populations who are particularly vulnerable, partially due to the difficulty of accessing services. Problems may be exacerbated when diverse community groups do not consider some controlling behaviours as problematic in an intimate relationship. Sufficient translators, resources in language, and community awareness in culturally and linguistically diverse groups are required. It has also been found that LGBTIQ+ people who seek support if they are abused, or wish to change their behaviour toward their intimate partner, may find it particularly difficult to access appropriate services (Australia's National Research Organisation for Women's Safety, 2020).

The approach of the service system should be evidence-based with the principles of compassion and trauma-informed practice with safety being paramount (see Hopper et al., 2010). Service providers need to be appropriately trained and experienced (see also Joint select committee on coercive control, 2021).

The APS suggests a comprehensive co-response model which prioritises victim and family safety. There are examples of effective co-response models in Australia that promote a shared understanding by the core service team. One example which was raised by an APS member is the Family Violence Multi-Agency Risk Assessment and Management Framework (MARAM) in Victoria which outlines the common approach across services to identify, assess and manage family violence risk (Victorian Government, 2021). This approach facilitates information sharing across services to co-develop a management plan.

#### In summary the APS recommends:

- *Policing practices that foster the empowerment of victims to have agency over their situation.*
- *Expansion of the provision of day and night online support services for victims, particularly those in regional and remote areas.*
- *Expansion of support for linguistically, culturally, and gender diverse victims, perpetrators, and community members.*
- *A comprehensive co-response model which prioritises victim and family safety.*

#### Legislative response

From a psychological perspective, it is the impact of legislation on victim survivors which is critical. Given this, the APS recommends that the court and associated personnel be trained and exposed to the lived experience of victims of coercive control to gain insight into the impact of these complex behaviours and victims' interaction with the justice system. Other considerations include:

- **Treating the behaviour as a pattern, not a stand-alone incident** - as previously discussed, the APS acknowledges the difficulty of identifying a pattern of behaviour (and, by association, a propensity to act similarly in the future) as opposed to examining a stand-alone incident. It is critical, however, that the whole context of the relationship and the pattern of behaviours be examined and admissible in court. Otherwise, the acts in isolation may not be 'illegal' despite the devastating effects they may have on victims.
- **Inability of victims to fully explain the impact of the behaviours** - due to the complexity and the effects of being a victim of a coercive-controlling behaviour, it may be impossible for a victim to understand and articulate the dynamics of the relationship and the full impact. It is critical, therefore, that psychologists make a thorough psychological assessment of victims and, ideally, perpetrators to fully elucidate the intent and impact of the behaviours.
- **Importance of the admissibility of psychologists' statements** - statements from psychologists must be admissible as an explanatory supplement to victims' evidence. Not only does this provide insight into the context of the behaviour, it may help to explain retaliatory or compliant behaviour of victims who are trying to minimise the effects of the coercive controlling behaviour.
- **Victim safety** - perpetrators utilising coercive and controlling behaviour are often skilled at identifying their partners' thought patterns and vulnerabilities. Charges made against offenders need the full support of the court process, with the victim's short- and long-term safety being the overriding factor across all levels of intervention.

Psychological, in particular, forensic psychological evaluation entail assessments for the purpose of assisting a court or other tribunal to determine facts, arbitrate disputes or make other forms of judicial or quasi-judicial decisions. The findings of assessments can be submitted as expert testimony in written and/or oral form. Examples of such assessments include Single Expert Witness reports in the Family Court of Australia, fitness to stand trial evaluations and presentence reports in criminal courts, psychological examinations of personal injury and family violence claimants, and evaluations of parenting competence and protective custody in child protection litigation. Evidence indicates that 41% more detail is elicited using a cognitive interview than standard investigative interviews alone (Australian Institute of Criminology, 2020). A newer study using an enhanced interview technique elicited four-and-a-half times more information than the cognitive interview (Paulo et al., 2016). A significant challenge to these interviews is the time taken (two to three hours), which is longer than most police officers have available.

Sentencing should be based on identifying, assessing and managing antecedents of coercive, controlling behaviour - following appropriate psychological assessment. Punishment by incarceration is not necessarily a general or specific deterrent for violence (Gilligan, 2001). A more holistic approach is required to address the complex reasons people behave violently (Kjaerulf et al., 2016). Sentencing, for example, needs to include psychological interventions and treatment. APS psychologists are well placed to provide ongoing advice and assistance regarding appropriate assessment and intervention.

Comments regarding the effectiveness of Police Protection Notices (PPNs) is beyond the scope of the APS, however, a recent systematic review and meta-analysis of the effectiveness of PPNs equivalents found, overall, mixed results in terms of reducing recidivism. While there was evidence to suggest that PPNs led to reduced subsequent acts of violence for some groups, PPNs were not effective in completely stopping or preventing continued violence (Cordier et al., 2019).

Similarly, the APS is not well placed to comment upon the specific policies and procedures, as well as the specifics of training that the Queensland Police Service undertake. What is important, however, is that all approaches are the 'gold standard' and evidence-based. Psychologists are well placed to deliver training and co-design educational resources with the police force.

*Management of members of the Queensland Police Service who committed or are alleged to have committed domestic violence.*

The judgement regarding whether police personnel who have committed, or are alleged to have committed, domestic violence should be automatically excluded from the service is a moral and ethical decision. Given this, the APS will not advocate either to exclude or include such personnel but recommends a cautionary approach. There are a number of factors, however, which should be considered when this decision is made:

- **Objectivity** – there is a significant chance that the experience of being a previous perpetrator may affect the objectivity when responding to a similar situation in the future. Similarly, however, it must be acknowledged that victims of coercive control and/or domestic violence may also not be objective in their assessment of other similar relationships.
- **Psychological assessment** – a thorough psychological assessment would be required to determine whether a convicted or alleged offender is likely to reoffend and whether the impact of their experience would affect their capacity to work objectively and professionally. As previously mentioned, merely attending a behavioural change program is insufficient to determine whether they are likely to reoffend. For example, assessments for coercive control may include application of the Dominance–Isolation subscale of the widely used Psychological Maltreatment of Women Inventory (Tolman, 1999), and assessments of the frequency and severity of violent behaviours, harassment, fear and perceived threat.
- **Psychological screening** – is necessary during recruitment of police personnel to determine whether they are likely to uphold the professional standards expected of the police force.

#### **In summary the APS recommends:**

- *That irrespective of the legislative pathway chosen, compassion and respect for victims, and consideration of their safety and the impact of legislation is paramount.*
- *Training for court, and associated personnel, and exposure to the lived experience of victims of coercive control to facilitate insight into the impact of these complex behaviours and victims' interaction with the justice system.*
- *Evidence gathering and sentencing procedures that take into account the psychological impact of both processes on those experiencing coercive control - beyond the trauma and distress that they have likely already suffered.*
- *That consideration of professional objectivity is needed when deciding whether members of the Queensland Police Service who committed, or are alleged to have committed, domestic violence are able to remain in the Police Force. If the decision is made to allow them to remain, a thorough psychological assessment is required. Psychological screening should also be undertaken during police force recruitment.*

## Part 2 - How do other jurisdictions address coercive control?

The APS notes *The Discussion Paper's* review of existing jurisdictional models to address coercive control, and the risks and benefits of these models. We appreciate the complexity of developing legislation that can effectively address coercive control and the subsequent difficulties of enforcing legislative models.

A key challenge to outlining the benefits and risks of each jurisdiction's model is the limited availability of formal outcome-based evaluations. This suggests there is a gap in the evidence base for understanding the strengths and weaknesses of existing frameworks, including the specific elements that are effective in decreasing the incidence of coercive control and increasing the safety of those who experience it.

The APS supports future research and evaluation regarding the effectiveness of coercive control legislative models. This would be particularly useful to identify the specific benefits and risks within the Queensland context.

In response to this question, the APS has not undertaken a comprehensive review of each jurisdictional model. Rather, we focus on high-level considerations, from a psychological and evidence-based perspective, that the APS believes should be integral to all models of coercive control.

The APS considers legislative models that integrate scientific evidence, psychological principles and specific key components of coercive control to be most effective. This includes the ability for legislative models to appropriately identify the nature and pattern of coercive controlling behaviour as set out in research. Specifically, the APS considers that legislative frameworks would benefit from considering the *impact* of abuse on the victim, the *intent* or motivation behind the behaviour, and not limiting the abuse to *physical violence*. In terms of existing jurisdictional models, the APS believes the *Domestic Abuse (Scotland) Act 2018*, appears to have the most suitable definition of coercive control.

The APS acknowledges the difficulties with enforcement of legislative models. In particular, proving *intent* to cause harm or quantifying the *impact* of abuse on the victim is problematic when there is a significant burden on the victim to prove the offence. Future legislative models may benefit from integrating evidence-based measures of identifying coercive controlling behaviours and psychological assessment to shift the burden of proof away from victims.

It is also important to recognise that: "The number of charges, prosecutions and convictions in the United Kingdom is often cited as evidence of effectiveness. But the use of the offence in and of itself cannot be assumed as evidence of better outcomes for victims" (Fitz-Gibbon et al., 2020). It appears the effectiveness of legislative models to address coercive control go beyond the elements of the framework itself. The APS believes any changes to legislation should be part of an integrated response including continuing community education and specific training for all relevant parties. Scotland, for example, has received praise for their coordinated and integrated implementation of the *Domestic Abuse (Scotland) Act 2018*.

The APS considers that the various jurisdictional models addressing coercive control highlight the complexity of the dynamics of domestic violence, in particular perpetrator behaviour and the impact on victims. It is recommended the above points be considered for the development of a legislative model in Queensland. This includes the provision of an outcome-based review to understand the barriers to compliance and enforcement, and to identify the appropriate and effective elements.

### In summary the APS recommends:

- *Future research and evaluations be undertaken regarding the effectiveness of coercive control legislative models.*
- *Any changes to legislation be part of an integrated response including continuing community education and specific training for all relevant parties.*
- *The provision of an outcome-based review to understand the barriers to compliance and enforcement and to identify the appropriate and effective elements.*

## Part 3 – Legislating against coercive control

There are legislative experts who can more aptly comment on the appropriateness of codifying coercive control, however, the APS would like to emphasise significant psychological considerations. As previously mentioned, the number of convictions does not necessarily equate to better outcomes for victims (Fitz-Gibbon et al., 2020). Resourcing must also be provided to assist perpetrators to change their behaviour patterns, and not simply contribute to the prison population. This includes mandating completion of accredited behaviour change programs and sentencing offenders to community correction orders that are enforced in a way that ensures victims' ongoing safety.

From a psychological perspective, the APS suggests that there may be both advantages and disadvantages to legislating against coercive control:

### What are the possible benefits of legislating against coercive control in Queensland?

If successfully developed, managed and administered, making coercive control illegal could take steps towards addressing the lived reality of most victims by:

- Validating the rights of the victim to be protected within the context of a relationship,
- Validating the feelings of victims in attempting to understand the behaviour as “not being acceptable”,
- Supporting general deterrence by sending the message that this behaviour is damaging, against human rights and unacceptable both socially and legally,
- Providing the means to legally intervene with coercive controlling behaviours to prevent possible escalation of violence. In the absence of codification, victims of coercive control are less likely to report the abusive behaviour, risking increasingly violent acts on the part of the perpetrator - including homicide,
- Encouraging recognition of coercive control as a pattern of abusive behaviour which increases the likelihood of prosecution and moves the legal system towards “offender accountability” rather than “victim-blaming” (Stark & Hester, 2019, p. 86).

### What are the risks of legislating against coercive control in Queensland?

- Research clearly demonstrates that punitive measures (imprisonment) do not necessarily lead to a decrease in aggressive behaviour or changes to perpetrator attitudes towards domestic violence (Gilligan, 2001). Although complex and fraught with methodological challenges, evidence suggests that the reconviction rate varies considerably internationally, with Australia being one of the highest (Yukhnenko et al., 2020). Other measures may need to be considered as part of any new legislation, for example court diversion programs.
- There is a risk that the evidence threshold will be set too high for an offence to have occurred and the burden of proof will be placed on the victim, causing them undue stress without securing a conviction.
- In addition, coercive control may be too difficult to police and prosecute and seen as a ‘lesser’ offence than physical assault (Fitz-Gibbon et al., 2020). It may also open the door for ‘system abuse’ and for perpetrators to make claims of contributing behaviour against their partners,
- One concern with the introduction of coercive control legislation is adding to an already ‘stressed’ system. Evidence-based standards and approaches for working with victims and perpetrators will be essential to ultimately improve outcomes.

### Challenges for police and prosecution if coercive control was criminalised

By their nature, laws against coercive control would rely on police involvement. However, victims may be reluctant to seek assistance from police due to their safety being endangered or fearing they will not be believed.

Any changes to the current law need to be accompanied by significant police training, increased legal support for victims, and improved resourcing for family violence services. The safety of victims needs to be ensured both whilst court proceedings are undertaken, and afterwards, in cases where a conviction is not secured. The APS recommends ongoing discussion and broad consultation regarding codifying coercive control and continuing review of outcomes-based research evidence from Australia and overseas.

If the legislation does proceed, it will be important to establish a comprehensive definition of coercive control developed through professional consultation mechanisms with policy staff, justice department staff and psychologists to ensure shared understanding.

Further, successful implementation will require police liaison and training to address misperceptions about coercive control, and identify barriers to gathering evidence prior to laws being introduced, as they did in Scotland. Additional research and international benchmarking to improve understanding of perpetrator typology and identify those more likely to use coercion and control in order to inform training across all levels of intervention is indicated, along with the use of evidence-based measures of coercive controlling behaviours (e.g. the Checklist of Controlling Behaviors) and psychological assessment to shift the burden of proof away from victims (Lehmann et al., 2012). Finally, ensuring that victims trust that coercive control will be treated in the same way as physical violence, despite the lack of physical evidence, will be imperative.

#### **In summary the APS recommends:**

- *Resourcing to assist perpetrators to change their behaviour patterns, and not simply contribute to the prison population. This includes mandating completion of accredited behaviour change programs and sentencing offenders to community correction orders that are enforced in a way that ensures victims' ongoing safety.*
- *Police training, increased legal support for victims, and improved resourcing for family violence services.*
- *The holistic impact of the legislation be considered when measuring its 'success'.*
- *Ongoing discussion and broad consultation regarding codifying coercive control, and continuing review of outcomes-based research evidence from Australia and overseas.*

#### **Additional considerations**

- Cultural nuances, gender/linguistic differences, Aboriginal and Torres Strait Islander social norms and beliefs, attitudes towards LGBTIQ+ communities and contextual circumstances have to be researched and considered in terms of how legislation is appropriately developed and enacted.
- Juries need to understand the traumatic nature of coercive control and the impact it has on victims. Instruction to juries around the legislation is essential to promote an objective perspective based on the law rather than personal experience - which is inextricably shaped by factors such as gender, culture etc. Psychologists can contribute to developing education materials to assist juries and legislative personnel in cases of coercive control and the APS would be happy to assist with this project.

In addition, research is required to ensure:

- Evidence-based assessment measures to identify whether coercive control is present in a relationship.
- The effectiveness of existing domestic and family violence intervention programs, along with further development of early intervention and treatment programs for both perpetrators and victims of coercive control. Current evidence regarding the effectiveness of existing programs is contradictory and suggests that they do not always reduce recidivism in perpetrators (Misso, 2019).
- Understanding and working with psychological antecedents of coercive and controlling behaviours to inform intervention programs for both victims and perpetrators.

#### **In summary the APS recommends:**

- *Supporting research undertaken by psychologists to provide evidence-based interventions for perpetrators and victims, and to further understand coercive control.*
- *That psychologists can contribute to developing educational materials to assist juries and legislative personnel in cases of coercive control and the APS would be happy to assist with this project.*

# References

- Australian Institute of Criminology. (2020). *Misconceptions of sexual crimes against adult victims: Barriers to justice*. <https://www.aic.gov.au/publications/tandi/tandi611>
- Australia's National Research Organisation for Women's Safety. (2020). *Developing LGBTQ programs for perpetrators and victims/survivors of domestic and family violence: Key findings and future directions*. <https://www.anrows.org.au/publication/developing-lgbtq-programs-for-perpetrators-and-victims-survivors-of-domestic-and-family-violence-key-findings-and-future-directions/>
- blue knot foundation. (2021). *Trauma-informed information and resources*. Blue Knot Foundation. <https://www.blueknot.org.au/Resources/Information/Trauma-Informed-Care-and-Practice>
- Cordier, R., Chung, D., Wilkes-Gillan, S., & Speyer, R. (2019). The Effectiveness of Protection Orders in Reducing Recidivism in Domestic Violence: A Systematic Review and Meta-Analysis. *Trauma, Violence & Abuse*, 1524838019882361. <https://doi.org/10.1177/1524838019882361>
- Dutton, M., & Goodman, L. (2005). Coercion in Intimate Partner Violence: Toward a New Conceptualization. *Sex Roles*, 52, 743–756. <https://doi.org/10.1007/s11199-005-4196-6>
- Fitz-Gibbon, K., Walklate, S., & Meyer, S. (2020). *Australia is not ready to criminalise coercive control—Here's why*. The Conversation. <http://theconversation.com/australia-is-not-ready-to-criminalise-coercive-control-heres-why-146929>
- Frances, R., Alder, C., & Sutton, A. (1994). *Programs for men who are violent in the home*. Department of Criminology, University of Melbourne. <https://www.aic.gov.au/sites/default/files/2020-09/CRG-19-92-FinalReport.pdf>
- Gilligan, J. (2001). *Preventing violence*. Thames & Hudson.
- Hamberger, L. K., Larsen, S. E., & Lehrner, A. (2017). Coercive control in intimate partner violence. *Aggression and Violent Behavior*, 37, 1–11. <https://doi.org/10.1016/j.avb.2017.08.003>
- Hopper, E. K., Bassuk, E. L., & Olivet, J. (2010). Shelter from the Storm: Trauma-Informed Care in Homelessness Services Settings. *The Open Health Services and Policy Journal*, 3(2), 80–100. <https://doi.org/10.2174/1874924001003020080>
- Joint select committee on coercive control. (2021). *Coercive control in domestic relationships*. Parliament of New South Wales. <https://www.parliament.nsw.gov.au/ladocs/inquiries/2626/Report%20-%20coercive%20control%20in%20domestic%20relationships.pdf>
- Kjaerulf, F., Lee, B., Cohen, L., Donnelly, P., Turner, S., Davis, R., Realini, A., Moloney-Kitts, M., Gordon, R., Lee, G., & Gilligan, J. (2016). The 2030 agenda for sustainable development: A golden opportunity for global violence prevention. *International Journal of Public Health*, 61(8), 863–864. <https://doi.org/10.1007/s00038-016-0887-8>
- Lehmann, P., Simmons, C. A., & Pillai, V. K. (2012). The validation of the Checklist of Controlling Behaviors (CCB): Assessing coercive control in abusive relationships. *Violence Against Women*, 18(8), 913–933. <https://doi.org/10.1177/1077801212456522>
- Loke, A. Y., Wan, M. L. E., & Hayter, M. (2012). The lived experience of women victims of intimate partner violence. *Journal of Clinical Nursing*, 21(15–16), 2336–2346. <https://doi.org/10.1111/j.1365-2702.2012.04159.x>
- Meeting of Attorneys-General. (2021). *Development of national principles on addressing coercive control—Terms of reference*.
- Misso, D. (2019). *Metacognition, personality functioning and domestic violence: A mixed methods analysis*. Queensland University of Technology.

- Paulo, R. M., Albuquerque, P. B., & Bull, R. (2016). Improving the enhanced cognitive interview with a new interview strategy: Category clustering recall. *Applied Cognitive Psychology, 30*(5), 775–784. <https://doi.org/10.1002/acp.3253>
- Pitman, T. (2017). Living with Coercive Control: Trapped within a Complex Web of Double Standards, Double Binds and Boundary Violations. *The British Journal of Social Work, 47*(1), 143–161.
- Stark, E., & Hester, M. (2019). Coercive Control: Update and Review. *Violence Against Women, 25*(1), 81–104. <https://doi.org/10.1177/1077801218816191>
- Streker, P. (2013). *'I wish that he hit me': The experiences of people who have psychoemotionally abused others | VU Research Repository | Victoria University | Melbourne Australia*. Lambert Academic Publishing. <https://vuir.vu.edu.au/19413/>
- Sweet, P. L. (2019). The Paradox of Legibility: Domestic Violence and Institutional Survivorhood. *Social Problems, 66*(3), 411–427. <https://doi.org/10.1093/socpro/spy012>
- Tolman, R. M. (1999). The validation of the Psychological Maltreatment of Women Inventory. *Violence and Victims, 14*(1), 25–37.
- Victorian Government. (2021). *MARAM practice guides and resources*. Family Violence Multi-Agency Risk Assessment and Management Framework. <http://www.vic.gov.au/maram-practice-guides-and-resources>
- Walklate, S., Jude McCulloch, Kate Fitz-Gibbon, & JaneMaree Maher. (2019). Criminology, gender and security in the Australian context: Making women's lives matter. *Theoretical Criminology, 23*(1), 60–77.
- Warren, L. (2021). *The invisible cage: Psychology's role in the criminalisation of coercive control*. In Psych. <https://www.psychology.org.au/for-members/publications/inpsych/2021/April-May-Issue-2/The-invisible-cage>
- Yukhnenko, D., Sridhar, S., & Fazel, S. (2020). A systematic review of criminal recidivism rates worldwide: 3-year update. *Wellcome Open Research, 4*, 28. <https://doi.org/10.12688/wellcomeopenres.14970.3>

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