

# Submission to the Women's Safety and Justice Taskforce

JUNE 2021



**AASW**

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Australian Association  
of Social Workers





# The Australian Association of Social Workers

The Australian Association of Social Workers (AASW) is the professional body representing more than 15,000 social workers throughout Australia. We set the benchmark for professional education and practice in social work, and advocate on matters of human rights, discrimination, and matters that influence people's quality of life.

## The social work profession

Social work is a tertiary qualified profession recognised internationally that pursues social justice and human rights. Social workers aim to enhance the quality of life of every member of society and empower them to develop their full potential. Principles of social justice, human rights, collective responsibility and respect for diversity are central to the profession, and are underpinned by theories of social work, social sciences, humanities and Indigenous knowledges. Professional social workers consider the relationship between biological, psychological, social and cultural factors and how they influence a person's health, wellbeing and development. Social workers work with individuals, families, groups and communities. They maintain a dual focus on improving human wellbeing; and identifying and addressing any external issues (known as systemic or structural issues) that detract from wellbeing, such as inequality, injustice and discrimination.

## AASW position on family violence

The AASW endorses Domestic Violence Victoria's definition, identifying family violence as:

...a pervasive, life-threatening crime that impacts on thousands of women and children with serious physical, psychological and economic effects. Family violence includes not only physical assaults but also an array of power and control tactics used along in concert with one another... Family violence can occur within any intimate relationship, age and ethnicity. While it can be perpetuated by any member of a family against another, it is more likely to be perpetrated by men (predominately by a woman's current or ex- partner) against women and children.

The causes of family violence are gender inequality and community attitudes towards women which is exacerbated or compounded by other intersecting factors such as lower incomes and poor mental and physical health. Discrimination based on gender has been widely documented in a range of structural settings, such as unequal economic, social, and political power between men and women.

The AASW also appreciates that family violence uniquely affects members of the LGBTIQ community, Aboriginal and Torres Strait Islander peoples, people with disabilities and people from culturally and linguistically diverse backgrounds. The AASW acknowledges that this submission does not include the voices of all of these experiences and therefore recommends additional research to better understand and address experiences of violence by marginalised groups in Australia in the future.

Social workers are integral to the delivery of support and intervention services for victims and survivors of family violence. Underpinned by a human rights approach, social workers believe that everyone has a right to live free from fear and violence in their home and broader society. The scope of social work practice includes counselling, crisis interventions, group work and case management; as well as policy development, research, evaluation and advocacy. Above all, social workers are deeply committed to challenging family violence at an individual, community, and systemic level, with the twin aims of ending it and of minimising its profound, long-lasting impacts on victim-survivors and the Australian community.

## Our submission

We welcome the opportunity to provide our comments for the Queensland Women's Safety and Justice Taskforce in relation to the discussion paper on coercive control and the Taskforce's terms of reference. While we recognise that gender-based violence impacts all people, we use gendered language in this submission based on the fact that most of the victim-survivors are identified as women across Australia.

**While the AASW supports the legislation of coercive control as a standalone offence in Queensland, the Queensland government must commit to significant investment for education and training and establishing a specific taskforce that addresses the risk of misidentifying Aboriginal and/or Torres Strait Islander and culturally and linguistically diverse (CALD) women as primary perpetrators, before introducing a separate offence of coercive control.** To end family violence, protect women and children, and ensure the best success and implementation of coercive control legislation, it is imperative that the underlying causes and contributors to family and domestic violence are addressed through a prevention, early intervention, and early education approach. This needs to occur at a community wide but also a structural level in terms of policies and institutions, thus requiring a significant cultural shift as has been argued consistently by advocates. Without such an approach, coercive control legislation may fail to achieve its intended purpose and outcomes for women and children. This submission comments on a selected range of terms of reference and discussion questions as outlined in the discussion paper 1.

## Recommendations:

- **That the Queensland government must commit to significant investment for education and training, and establish a special taskforce that addresses the risk of misidentifying Aboriginal and/or Torres Strait Islander and CALD women as primary perpetrators, before introducing a separate offence of coercive control.**
- That training provided for police and judicial officers include the understanding of coping mechanisms to coercive controlling behaviours and systemic abuse.
- That the Queensland government develop an education campaign that improves the understanding of coercive controlling behaviours in the broader community.
- That the Queensland government allocate adequate resource for prevention and early intervention programs that provide specialist support for women from a diverse background, including all abilities, LGBTIQ, Aboriginal and Torres Strait Islander, and Culturally and Linguistically Diverse (CALD).
- That the Queensland Government collaborate with stakeholders, such as AASW and The National Accreditation Authority for Translators and Interpreters (NAATI), to provide family violence training for qualified interpreters and develop formal complaint process to ensure the highest standard of service provision.
- That the Queensland Government fund additional Aboriginal and Torres Strait Islander and Culturally and Linguistically diverse family violence liaison officers in the social services system in Queensland.
- That the Queensland Government fund additional social worker and forensic worker positions in emergency departments.
- That the Queensland Government introduce legal safeguards, in consultation with Aboriginal community-controlled organisations, to identify the person most in need of protection in instances where mutual allegation of coercive control occurs.
- That the QLD government develop DFV professional development programs for magistrates, judicial officers and police officers including the requirement to undertake refresher courses.

## What aspects of women's attempts to survive and resist abuse should be taken into account when considering the issue of coercive control?

The AASW asserts that the psychological impacts of coercive control on women are often implicit, diverse, develop gradually, and present as other social vulnerabilities unrecognized by current family violence assessment frameworks. Therefore, we must recognise the coping mechanisms and reactions of women who experience coercive control, and ensure that if there was a stand alone offence of coercive control, the coping mechanisms listed below are appropriately considered in criminal proceedings. These coping mechanisms often place women in a vulnerable position during police investigation and court proceeding, such as women being mistakenly identified as primary offender and having their claims discredited in trials. Therefore, there need to be a formal

recognition of coping mechanisms within the legislation and the criminal justice system so that women are not disadvantaged in criminal proceedings.

### **Drug and alcohol dependency**

Using licit and illicit drug may be a coping mechanism when experiencing coercive control. Our members have suggested that the psychological damage of coercive controlling behaviours on women might contribute to drug and alcohol dependency behaviours. In particular, the use of illicit drugs deters some women who are experiencing family violence from reporting to police as they are concerned that police officers might not trust their claims or misidentify them as primary perpetrator. In addition, there has been emerging literature on the use of substance use coercion where perpetrators employ abusive tactics targeted towards a partner's substance use as part of a broader pattern of abuse and control. This includes a range of physical and sexual abuses, such as controlling drug consumption, forcing withdrawal or facilitating overdoses, taking control over medication, forcing her into sex work and rape.<sup>1</sup> Therefore, it is crucial to recognise the use of drug and alcohol as an attempt to survive, and in some cases, a sign of substance use coercion.

### **Continuing compliant behaviours to perpetrators**

Women's reluctance to disclose their experiences of family violence to formal support services and organisations, as well as a reluctance to seek formal and legal options for protection need to be understood as an attempt to survive an escalation of violence. These behaviours need to be understood as a form of compliance due to the corrosive effects of coercive control on a woman's sense of self and capacity for self-protection.

The corrosive effects of coercive control can also be seen when women who have experienced family violence interact with the child protection system, where their decision making is assessed as being unwilling and unable to protect or care for their child/ren. Again, these behaviours need to be understood as a form of compliance and an attempt to survive, protect their children and resist abuse.

### **Physical defence**

Some women defend themselves in situations of family violence, in many instances this occurs after increased escalation and severity of the violence or to protect their children and loved ones. However, we know that police often assess the woman as the perpetrator rather than the victim who is acting in self defense. This is not only a significant injustice, but also places the woman and her family at increased risk through the lack of support. It also sends a very dangerous message to the woman that she cannot access support because she will not be believed, thereby placing increasing power and control in the hands of the perpetrator.

### **Reaction to systemic abuse**

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<sup>1</sup> Warshaw, C., Lyon, E., Bland, P. J., Phillips, H., & Hooper, M. (2014). Mental health and substance use coercion surveys. Report from the National Center on Domestic Violence, Trauma & Mental Health and the National Domestic Violence Hotline.: National Center on Domestic Violence, Trauma & Mental Health and the National Domestic Violence Hotline.

Members told us that the women's experiences with the child support, child protection and family law systems impact how they cope with coercive controlling behaviours, usually by their co-habiting perpetrator. The fear of having their children removed if they report and engage with systems such as child protection, often results in women not engaging or reporting their experiences of violence. This is supported by the fact children being placed in care due to domestic and family violence in the home, and women/mothers being assessed as unwilling or unable to protect them because they do not leave their perpetrator.<sup>2</sup> Women and families need support, instead of punishment in this situation.

### **Recommendation**

- That training provided for police and judicial officers include the understanding of coping mechanisms to coercive controlling behaviours and systemic abuse.

## **If you have supported a victim of coercive control, what worked well and what could have been done better?**

### **What worked well?**

Social workers provide crisis intervention and safety planning; psychoeducation; support with the practical issues of moving, housing, income; counselling and support to manage the trauma and OF? grief and loss for the woman and the children; and advocacy to access supports and justice. We work in a supportive manner to build relationships and trust with women who experience coercive control. Social workers use psychoeducational techniques to help women recognize and identify signs of coercive control, and a systems approach to collaborate with other services.

#### *Psychoeducation*

AASW members report that many women do not always know that they are in a coercive controlling relationship because there is no physical violence, thus they do not identify this as 'violence' and for others, the lack of physical violence makes it difficult to prove the occurrence of violence. The mental torment caused by coercive controlling behaviour is not always considered by courts and other parts of the social services system, including police and the justice systems. Therefore, the strength of a social work approach is to listen to those with lived experience and how they want to be supported. Therefore, social workers support women to understand when they are in a coercive controlling relationship by recognizing and identifying the signs.

#### *Cross-agency collaboration*

AASW members told us that information sharing and communication across NGOs, other organisations, and the police is vital in assisting women experiencing coercive control. Having an integrated service response has worked well for our members as it helps to identify signs of coercive

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<sup>2</sup> Douglas, H., & Walsh, T. (2010). Mothers, domestic violence, and child protection. *Violence Against Women*, 16(5), 489-508.

control that are not previously identified by the police, in particular, the misidentification of primary aggressors. Information sharing and communication ensures important and vital information is known about victims and perpetrators to ensure safety and support. Service integration and police involvement in case conferences are particularly important, especially in high-risk cases. The profession of social work focuses on the person in their environment which includes all the informal and formal support networks and systems they interact with. Social workers have a unique role in coordination and facilitation of collaboration. Without a whole of community and system approach, women and their families can be left more vulnerable, for example due to fears of homelessness or lack of income support, or children becoming distressed at school. Having a whole of system collaboration is thus so important, this has been anecdotally shown through the High Risk teams established in some locations. Social work is a key member of this multi-disciplinary team, with the focus on holistic support and risk assessment.

### **What could have been done better?**

Better community education and workforce training are required to improve the quality of support provided for women experiencing coercive control. Ensuring that women and children from regional and remote areas and women and children from CALD and Aboriginal and Torres Strait Islander communities and women with disabilities have access to appropriate and timely services is vital.

#### *Community education*

Community education is important for frontline workers, police responders and child protection workers to identify coercive controlling behaviours, as perpetrators not only manipulate the woman but also the service systems by how they present and conduct themselves.

In addition to this, there is a need to educate people studying helping professions at university on coercive control and how to work appropriately with survivors prior to graduation and moving into the care workforce.

#### *Early intervention for women from a marginalized community*

Access to preventative and early intervention domestic and family violence support services that specifically cater to the needs of women with disabilities is vital as they are overrepresented in the system. Queensland currently has one specialized service WWILD that provides support for people with intellectual or learning disabilities who have experienced sexual abuse or have been victims of crime. Women with disabilities, for example cognitive impairment, are highly vulnerable to coercive control behaviours as part of their overall experiences of violence. Prevention programs providing specialist education and support, and increased capacity of WWILD is necessary.

### **Recommendation**

- That the Queensland government develop an education campaign that improve the understanding of coercive controlling behaviours in the social services system
- That the Queensland government allocate adequate resource for prevention and early intervention programs that provide specialist support for women from a diverse background,



including all abilities, LGBTIQ, Aboriginal and Torres Strait Islander, and Culturally and Linguistically Diverse (CALD).

## Actual or perceived barriers which contribute to low reporting of sexual offences and the high attritions rate throughout the formal legal process of those who do report

### **Lack of skilled specialist staff in the social services system**

Reporting a sexual offence is a daunting experience for women as there is still stigma attached to this aspect of family violence and a lack of awareness of sexual violence within relationships. Our members recognize that a shortfall of specialist family violence staff across the social services system contribute to the low reporting of sexual offence and the high attritions rate throughout the formal legal process. For example, patriarchal attitudes about a woman's role in a relationship can still be held by workers in the public services, including hospitals, The Office of the Director of Public Prosecutions, and in particular, the Queensland Police Service. Very often, the use of drugs and alcohol and engagement in the sex industry changes views of victimhood. Therefore, specialist staff are recommended to bring in their expertise to different settings in order to wrap services around women before the violence escalates. Unfortunately, there have been a lack of specialist staff in all lines of work that provide services for women who have diverse needs. Our members highlight the following setting where there have been inadequate number of staff that provide culturally safe services for vulnerable women:

- Aboriginal and Torres Strait Islander and CALD family violence liaison staff in all of Queensland.
- Social workers and forensic workers in emergency departments who respond to the incident of family violence in North Queensland.

### **Disadvantage faced by Aboriginal and/Torres Strait Islander women and women from a CALD background**

The AASW also recognizes the unique barriers experienced by Aboriginal/Torres Strait Islander women when accessing justice. According to the Queensland Domestic and Family Violence Death Review and Advisory Board (QDFVDR&AB), of domestic violence-related deaths reviewed for the period 2015–17, in just under half (44.4%) of the female adult cases the woman had been identified by police as a respondent on at least one occasion, and “in the Aboriginal family violence homicide meeting, nearly all of the victims had a prior history of being recorded as both respondents and aggrieved parties, in both their current and historical relationships”.<sup>3</sup> The AASW is very concerned

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<sup>3</sup> Nancarrow, H., Thomas, K., Ringland, V., & Modini, T. (2020). Accurately Identifying the "person Most in Need of Protection" in Domestic and Family Violence Law (No. ANROWS Research Report 23). Australia's National Research Organisation for Women's Safety.

that if coercive control has become a separate offence, Aboriginal and/or Torres Strait Islander women will continue to be misidentified as perpetrators. Therefore, AASW recommends the QLD to introduce legal safeguards, in consultation with Aboriginal community-controlled organisations, to identify the person most in need of protection in instances where mutual allegation of coercive control occur. **If this cannot be addressed, the AASW would recommend the QLD government to delay the introduction of this legislation to the parliament.** In addition to such fear, our members have told us of Aboriginal and Torres Strait Islander women who don't want to report their experience of violence as they don't want their partner to go to prison and face ostracization by their community. <sup>4</sup> There is oftentimes a difference in relationship types in Aboriginal communities and these are not always recognized by our current criminal justice systems.

In our members' experience, there has also been a lack of interpreters who are readily able to assist women from culturally and linguistically diverse backgrounds in seeking legal advice. Many women from migrant and multicultural backgrounds have little or no English language skills and can experience difficulties understanding or sharing their experiences, are fearful of the legal questions and words used by police and courts. In these cases, interpreters are needed. However, there have also been incidences of interpreters moving into cultural norms or collusion and advising women in their language not to say such things about their husbands or not passing on correct information to social workers. There is no mechanism to make a complaint about the interpreter as the social worker does not always know this has happened until a different interpreter is engaged. Thus, there needs to be a stronger framework for training and accountability of interpreters to ensure they do no harm.

### **Recommendation**

- That the Queensland Government collaborate with stakeholders, such as AASW and The National Accreditation Authority for Translators and Interpreters (NAATI), to provide family violence training for qualified interpreters and develop formal complaint process to ensure the highest standard of service provision.
- That the Queensland Government fund additional Aboriginal and Torres Strait Islander and Culturally and Linguistically diverse family violence liaison officers in the social services system in Queensland.
- That the Queensland Government fund additional social worker and forensic worker positions in emergency departments.
- That the Queensland Government introduce legal safeguards, in consultation with Aboriginal community-controlled organisations, to identify the person most in need of protection in instances where mutual allegation of coercive control occurs.

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<sup>4</sup> <https://www.creativespirits.info/aboriginalculture/people/domestic-and-family-violence>

## Policing and investigative approaches, including the collection of evidence and specialist training and trauma-informed responses to victims and survivors

It is evident and has been highlighted in recent situations of the tragic deaths of women, that the attitudes and values held by police can seriously impact on the response. The AASW recognises that the Queensland Government is now introducing some specific training for police, and also that some training has been developed by WWILD to support police to understand the unique needs of women with intellectual disabilities or cognitive impairment. However, this is not sufficient as once off training is inadequate. To achieve a cultural shift in relation to attitudes, we need embedded and ongoing training by police and systems in place to ensure their ability to recognise all forms of violence, including coercive control. The AASW welcomes the recruitment of specialist Family and Domestic Violence police officers as they are vital in changing culture in the police force. However, it is recognised that there has been a very high demand for specialist family and domestic violence officers, with sometimes only one in smaller communities in far north Queensland. Without this additional support, it is difficult for woman accessing the justice system to hold perpetrators accountable. The AASW believes embedding social workers or other family violence specialists to work with the police is essential.

The AASW strongly recommends that education and training is necessary for all members of the judicial system, this includes lawyers and judges. The AASW has called for this repeatedly with each inquiry into domestic and family violence. Without this, deeply embedded values and beliefs about domestic and family violence, including coercive control will not shift.

### **Recommendation**

- That the QLD government develop DFV professional development programs for magistrates, judicial officers and police officers including the requirement to undertake refresher courses.

## How best to improve capacity and capability across the criminal justice system to understand and respond to particular issues experienced by women as victims and offenders including for support and advocacy services, police, prosecutions, defence representation, courts and the judiciary

### **Inequity between victim-survivors and their perpetrator in criminal proceedings**

With regard to court systems, women who experience financial controlling behaviour are left with almost no financial resources until a verdict is concluded. Our members provided an example of a perpetrator who had access to all the financial resources in the relationship, who engaged expensive defence lawyers who in turn re-traumatised the victim-survivor as leverage. Meanwhile, women do not have the same level of access to these financial resources, or the resources are tied into family trusts and assets that are controlled by the perpetrator and their accountant. This means that during court proceedings the woman does not have access to income support until the case is

resolved. In many instances, women have no income to fall back on while experiencing the continuation of a coercive controlling relationship and while being traumatised by criminal proceeding itself. This was not an uncommon scenario.

In some exceptional cases, our members in far north Queensland and small communities have observed that some perpetrators of family violence have deliberately sought services available in all family law firms and legal services, causing conflict of interest within legal firms, thus leaving women with no option but to travel to cities to seek legal support. As a result, it restricts the options of local legal support available for victim-survivors.

## Whether a stand-alone offence of domestic violence is required

Since coercive control is often subtle and implicit, unless it becomes a standalone offence, it will be hard to develop education, training, and the legal and service infrastructure in place to hold perpetrators accountable for their behaviours. However, the bigger issue is that similar existing criminal offences are underutilized in the system to hold perpetrators accountable. For example, breaching a family violence order (which sometimes has included a recognition of coercive controlling behaviours) and strangulation are criminal offences. However, our members' experiences have been that police officers rarely prosecute perpetrators under these charges. This highlights the importance of police officers receiving appropriate education and a framework to support them since they are not well-informed of what constitutes evidence and the likelihood of a successful prosecution.

Therefore, any new legislation, be it coercive control or not, needs to be coupled with significant investment in education about how to understand and use the legislation to strengthen its power to hold perpetrators accountable.

Overall, the AASW supports the legislation of coercive control as a standalone offence because of its legal recognition of the impact of these behaviours. However, **the Queensland government must develop a whole-of-government and community response to address the entrenched systemic issues that fail to protect women before making coercive control a standalone offence.** This includes the establishment a specific taskforce that develops strategies to mitigate the risk of misidentifying Aboriginal and Torres Strait Islander and CALD women as primarily perpetrators. The AASW highly recommends that this taskforce must include Aboriginal community-controlled organisations and the peak bodies for ethnic communities in Queensland so that their concerns are considered on an equal footing with other services before making further changes to the criminal law.

Protecting women from family violence was highlighted in multiple previous reports most notably the Not Now, Not Ever report, yet, women continue to experience this insidious form of abuse and are murdered at the hands of perpetrators. The Queensland government needs to ensure significant investment is prioritized for education and other infrastructure essential to successful implementation and outcomes for women and children experiencing coercive control. Without this, we will continue to fail women and children in our state.

## **Recommendation**

- That the Queensland government must commit to significant investment for education and training, and establishing a specific taskforce that addresses the risk of misidentifying Aboriginal and/or Torres Strait Islander and CALD women as primary perpetrators, before introducing a separate offence of coercive control.

## **Conclusion**

In summary, while the AASW supports the legislation of coercive control as a standalone offence in Queensland, the Queensland government must commit to significant investment for education and training and establishing a specific taskforce that addresses the risk of misidentifying Aboriginal and/or Torres Strait Islander and culturally and linguistically diverse (CALD) women as primary perpetrators, before introducing a separate offence of coercive control. If this cannot be achieved, the AASW recommends the Queensland government to delay the introduction of the legislation to the parliament.



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