



Centre Against Domestic Abuse Moreton Bay region

16 July 2021

Submission on Discussion Paper 1 **Options for legislating against coercive control and creation of a domestic violence offence**

The Centre Against Domestic Abuse (CADA) makes this submission in response to the Women's Safety and Justice Taskforce Discussion Paper 1 which:

1. examines how best to legislate against coercive control
2. reviews the need for a specific offence of Commit Domestic Violence

About us

CADA is a community organisation funded by the Queensland Government Department of Justice and Attorney-General to support adults and children affected by domestic and family violence (DFV). CADA has been supporting people experiencing DFV in Moreton Bay for 29 years.

CADA provides a range of services, including crisis and court support, individual counselling and wellbeing programs. We are active in early intervention and prevention strategies through community education and advocacy.

CADA employs approximately 60 staff, most of whom are domestic and family violence specialists. We operate from offices in Caboolture, Morayfield, Redcliffe and Strathpine. We are a service provider who provides support to nearly 16 000 people experiencing DFV in Moreton Bay region annually. Moreton Bay reports one of the highest rates of DFV of the Local Government Areas in Queensland. Due to our long term and extensive experience with DFV, CADA has expertise in how the legal system works and does not work when responding to people experiencing DFV.

Expert comment on the options in Discussion Paper 1.

We offer the following expert comment on the two topics being examined by the Women's Safety and Justice Taskforce.

CADA supports creating amendments to the existing Domestic and Family Violence Protection Act.

CADA makes the following comments regarding the thirteen options in Discussion Paper 1.

Options for legislating against coercive control in Queensland

Option 1 – Utilising the existing legislation available in Queensland more effectively **SUPPORT**

Option 2 – Creating an explicit mitigating factor in the *Penalties and Sentences Act 1992* (Qld) that will require a sentencing court to have regard to whether an offender's criminal behaviour could in some way be attributed to the offender being a victim of coercive control **SUPPORT**

Option 3 – Amending the definition of domestic violence under the *Domestic and Family Violence Act 2012* 50 **SUPPORT**

Option 4 – Creating a new offence of 'cruelty' in the Criminal Code **NUETRAL**

Option 5 – Amending and renaming the existing offence of unlawful stalking in the Criminal Code **NUETRAL**

Option 6 – Creating a new standalone ‘coercive control’ offence **DO NOT SUPPORT**

Option 7 – Creating a new offence of ‘commit domestic violence’ in the *Domestic and Family Violence Act 2012* **DO NOT SUPPORT**

Option 8 – Creating a ‘floating’ circumstance of aggravation in the *Penalties and Sentences Act 1992* for domestic and family violence **NUETRAL**

Option 9 – Creating a specific defence of coercive control in the Criminal Code **DO NOT SUPPORT**

Option 10 – Amending the *Evidence Act 1977* (Qld) to introduce jury directions and facilitate admissibility of evidence of coercive control in similar terms to the amendments contained in the *Family Violence Legislation Reform Act 2020* (WA) **SUPPORT**

Option 11 – Creating a legislative vehicle to establish a register of serious domestic violence offenders **DO NOT SUPPORT**

Option 12 – Amending the *Dangerous Prisoners (Sexual Offenders) Act 2003* or creating a post-conviction civil supervision and monitoring scheme in the *Penalties and Sentences Act 1992* for serious domestic violence offenders **SUPPORT**

Option 13 – Amending the *Penalties and Sentences Act 1992* to create ‘Serial family violence offender declarations’ upon conviction based on the Western Australian model **SUPPORT**

Overarching expert comment. CADA contends that while amendments to the legal system in response to the domestic and family violence crisis in Queensland and Australia are very important, they are a small part of the overall picture. CADA statistics show 80 per cent of DFV victims do not have contact with criminal justice system. Many aggrieved parties report to CADA that they fear contact with the legal system could worsen their situation, or put them at more risk of retribution from perpetrators. These fears are often founded in their direct experiences. First Nations women in particular, have communicated with us that they do not want “their men locked up”. Any legal amendments only affect a 20 per cent minority of the aggrieved in DFV cases. Of that 20 per cent, a significant proportion of the aggrieved will be negatively affected by their contact with the legal system due to:

- DFV perpetrators lodging vexatious claims against the aggrieved
- DFV using systems abuse to control and harm the aggrieved
- poor understanding of DFV in the policing system leading to decisions that are harmful to the victim/survivor
- the punitive effects of the legal system on the family networks of the aggrieved
- poor understanding of DFV in the legal system leading to legal decisions that are harmful to the aggrieved

CADA contends, based on the body of scholarly evidence, that systems, social, cultural, educational and political change is the most effective way to mitigate against harmful social problems such as DFV. Therefore, CADA argues that while legal reform is important, it is just as important that governments invest significant resources and attention into the need for cultural change. Public information campaigns, school education programs, workplace professional development, pre service education and leaders modelling respectful behaviour and accountability for abusive behaviour are as important as legal change.

Without sufficiently funded and evidenced based programs and campaigns supporting gender equality, respectful behaviour and accountability, amendments to the legal system are unlikely to be successful at significantly preventing and reducing the occurrence of domestic and family violence or coercive control behaviours. Furthermore, there is strong evidence that survivors or DFV are often further harmed by the government systems that respond to DFV due to the discriminatory cultures within those systems.

Without systems reform, legal amendments to the existing laws on DFV would put women at further risk.

Without an understanding of how DFV perpetrators use systems to abuse the aggrieved, legal amendments to the existing laws on DFV would place women at further risk.

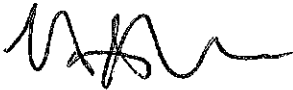
CADA recommends that any new legislation follows a comprehensive Domestic and Family Violence education program that is mandated for police officers, the judiciary and service providers. A successful evaluation of the substantiated outcomes of the comprehensive education program would need to proceed the implementation of any legislative change.

CADA recommends an education model similar to Scotland which has been reported to have been effective and produced promising outcomes from its Coercive Control legislation within their systems and frameworks. Meaningful education programs are evidenced based, require expertise from a variety of disciplines and require ongoing opportunities for continuous learning.

CADA believes that the voices of people with a lived experience of DFV must be primary to any systems or legislative reforms. It is essential that Women's Safety and Justice Taskforce consult directly and comprehensively with a diverse range of survivors so their voices are heard. Many survivors may not have the capacity to produce detailed submissions. CADA recommends the taskforce incorporate accessible consultation options such as confidential oral evidence given by survivors and that some of those survivors are selected by frontline service providers such as CADA and other service providers.

Thank you for the invitation to make this submission.

Sincerely,



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