

[This submission includes colour-coding on page 3 (fyi - for the purpose of printing)]

NSW Department of Communities and Justice  
By email: [policy@justice.nsw.gov.au](mailto:policy@justice.nsw.gov.au)

31 August 2022

**Exposure draft Crimes Legislation Amendment (Coercive Control) Bill 2022**

To whom it may concern,

Thank you for the opportunity to comment on the exposure draft Crimes Legislation Amendment (Coercive Control) Bill 2022 (the **Draft Bill**).

We welcome this important update to legislation to better reflect the reality of the way domestic and family violence is perpetrated and therefore create more avenues to hold perpetrators to account. We are pleased to see the inclusion of a statutory review of the Crimes Legislation Amendment (Coercive Control) Act 2022 at 54I; an important safeguard for ensuring the legislation works to support victim-survivors.

However, there are a couple of elements of the draft bill that cause us concern and we'll focus on these in this submission.

We further want to reiterate the *primary* importance of implementation. We cannot emphasise enough that the new legislation will only be beneficial to victim-survivors if it is carefully implemented and supported by a significant and ongoing investment in training. This submission includes some thoughts on what this must look like.

This submission is informed by:

- Interviews with victim-survivors of domestic and family violence who have experienced coercive control, using a response-based practice approach.
- Interviews to investigate service responses to domestic economic abuse in the United Kingdom, United State and Canada conducted for my Churchill Fellowship 2019.
- Conversations with frontline DFV service providers in Australia.

**About the Centre for Women's Economic Safety Ltd (CWES)**

CWES is a newly registered charity that exists to support women experiencing, at risk of experiencing, or recovering from, economic abuse in the context of domestic and family violence. We do this by:

- Connecting women with appropriate information, services and assistance to support their economic safety.
- Sharing their lived experiences to improve social, service and system responses to economic abuse and reduce its impact.

We endorse the submission provided by Economic Abuse Reference Group NSW, of which CWES is a member.

There are four key points we want to make in this submission:

1. We welcome the inclusion of references to economic abuse in the Exposure Draft Bill but propose an amendment to the draft that **defines economic abuse**.
2. We are **disappointed that the scope of proposed (Coercive Control) legislation is limited to intimate partners**.
3. The Government must **allow enough time for training and consultation before criminalising coercive control**.
4. The **content of "training" to be provided is critical** to ensure there are no negative unintended consequences from the new legislation.

#### 1. **Economic abuse must be defined**

We are delighted to see economic abuse recognised for the first time in proposed legislation in NSW. However, we have a couple of interrelated concerns.

Economic Abuse is one of the least well recognised forms of domestic abuse<sup>1</sup>. As such legislation plays an important role in improving awareness and understanding of this form of violence - especially for police and the legal profession. This is why economic abuse must be defined and a non-exhaustive list of examples included in legislation. We further support other forms of abuse being similarly named, defined and illustrated.

While there are some examples of behaviours that constitute economic abuse included in the draft Coercive Control legislation, economic abuse is not named and defined despite these behaviours making up the majority of examples included [See 54F (2c), (2e), and all but one of the examples listed at (2g)]. Economic abuse is a central mechanism of coercive control and deserves greater attention.

On the flipside, the amendment to the Crimes (Domestic and Personal Violence) Act 2007, names economic abuse [at 6A (1) (c)] and includes some further explanatory text [at 6A (2) (f), (g)], but does not include examples.

While economic abuse is central to coercive control and there is significant overlap in the presentation of economic abuse in cases of coercive control and domestic and family violence, there are some behaviours that could constitute economic abuse but not necessarily coercive control, for instance, disposing of someone's assets without their knowledge.

While we are unclear how the interrelationship between the two bills will work in practice, we propose a definition of Economic Abuse be added to the Draft Bill (as below), most likely within the Amendment of Crimes (Domestic and Personal Violence) Act 2007 No 80 which could be referenced in the Crimes Legislation Amendment (Coercive Control) Act 2022, and applicable in the latter where such economic abuse is part of a course of conduct.

[Drawn from Vic legislation, SA legislation, CWES addition]

### **Meaning of economic abuse**

For the purposes of this Act, economic abuse is behaviour by a person (the first person) that is coercive, deceptive or unreasonably controls another person (the second person), without the second person's consent—

- (a) in a way that denies the second person the economic or financial autonomy and security the second person would have had but for that behaviour; or
- (b) by withholding or threatening to withhold the financial support necessary for meeting the reasonable living expenses of the second person or the second person's child, if the second person is entirely or predominantly dependent on the first person for financial support to meet those living expenses.

Examples -

- removing or keeping a family member's property without permission, or threatening to do so;
- disposing of property owned by a person, or owned jointly with a person, against the person's wishes and without lawful excuse;
- without lawful excuse, preventing a person from having access to joint financial assets;
- preventing a person from seeking or keeping employment;
- dowry abuse;
- causing the person through force, coercion or deception to—
  - (i) relinquish control over assets or income; or
  - (ii) claim social security payments; or
  - (iii) sign a power of attorney enabling the person's finances to be managed by another person; or
  - (iv) sign a contract for the purchase of goods or services; or
  - (v) sign a contract for the provision of finance; or
  - (vi) sign a contract of guarantee; or
  - (vii) sign any legal document for the establishment or operation of a business.

## **2. Expand the scope of the Coercive Control legislation to include other domestic and familial relationships**

While coercive control is most commonly experienced by intimate partners, what message are we sending to people in other domestic and familial relationships that this legislation does not apply to them? We know that people who rely on a carer or who live with multiple generations of family, and others, can be and are being, subject to the same dynamics of abuse. Yet we are only offering them a civil remedy not a criminal one. We recommend the draft bill be amended to adopt the definition of 'domestic relationship', 'relative' and 'carer/dependent' in the existing Crimes (Domestic and Personal Violence) Act 2007 No 80.

## **3. Allow time for training and consultation before criminalising coercive control**

We are concerned about the time frame for implementation and point to the recommendation of the Joint Select Committee on Coercive Control that a "considerable prior program of education, training and consultation with police, stakeholders and the frontline sector" be undertaken before criminalising coercive control.

While we are unclear on the likely timing of proclamations of the amendments, we urge the Government to heed Recommendations 1 and 2 of the Report by the Joint Select Committee on Coercive Control and proceed with the amendment to the Domestic and Personal Violence legislation alongside a significant program of education, training and consultation, before criminalising coercive control.

Recommendation 1 stated that, “the commencement of a criminal offence should not occur without a considerable prior program of education, training and consultation with police, stakeholders and the frontline sector...” and Recommendation 2 proposed the Government amend the “Crimes (Domestic and Personal Violence) Act 2007 to create a clear and accessible definition of domestic abuse, which includes coercive and controlling behaviour ... as a priority, before criminalising coercive control).<sup>ii</sup>

In relation to Recommendation 1, CWES believes a period of two years would likely be the *minimum* timeframe that would be realistic for the development and delivery of training, and sufficient scaling up in the sector to be ready to provide a reasonable and consistent quality of response to victims of coercive control.

In relation to the call in Recommendation 2, for a “clear and accessible definition of domestic abuse,” we support including definitions and examples of Physical abuse, Sexualised abuse and reproductive coercion, Stalking and harassment, Tech-facilitated abuse, Psychological and emotional abuse, and Economic Abuse, see our point 1 (above).

#### 4. The content of training is key

There was universal agreement in the consultation that training would be critical to the smooth implementation of these new laws, but less attention has been paid to what the training should look like.

Training for police and the relevant parts of the legal sector must cover the dynamics of coercive control, the intersection of economic abuse with all other forms of violence, the importance of responses and resistance to violence, the role of social responses in informing victim-survivor decision-making, and the critical importance of context<sup>iii</sup>.

Too many police, lawyers and court officers can be manipulated and co-opted by perpetrators to extend their abuse. Very few such professionals have sufficient training in coercive control. Training in Response-Based Practice interviewing for police (and others) has the potential to support officers with an approach to questioning which better reveals the context of the abuse. It can reveal the situational logic of the victim in their decision-making and navigation through day-to-day life with an abusive person. This information is an important part of the fact pattern in cases of domestic and family violence and critical to understanding coercive control.

Even without a criminal offence of coercive control, this training would result in improvements in the quality of police response to victims of DFV, and has the potential to help lessen the distress people experience engaging with the legal system. Importantly, it has the potential to address issues of misidentification of the primary aggressor.

A better understanding of economic abuse by police also provides more avenues for identifying evidence that can support prosecution of coercive control offences. Economic abuse is more likely to create tangible evidence of abuse and coercion than many other aspects of coercive control. An evaluation of UK Police training in economic abuse in showed 91% of attendees better understood the evidence-gathering opportunities of economic abuse and were more confident to record economic abuse in police records<sup>iv</sup>.

More broadly, we urge the Government to engage in ongoing consultation with other jurisdictions that have criminalised coercive control, the DFSV sector, with police, the judiciary and with victim-survivors on implementation and awareness-raising to support the cultural change that is needed alongside the new laws.

Thank you for the opportunity to provide comments on the Draft Bill. If you would like to discuss this further, please contact me at [ceo@cwes.org.au](mailto:ceo@cwes.org.au).

We have no objection to this submission being published (minus my email address).

Yours faithfully,



Rebecca Glenn

Founder and CEO, Centre for Women's Economic Safety Ltd

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<sup>i</sup> Glenn, R. & Kutin J. J., 2021. [Economic Abuse in Australia: Perceptions and experience](#). Centre for Women's Economic Safety. Sydney, NSW.

<sup>ii</sup> Coercive control in domestic relationships / Joint Select Committee on Coercive Control. [Sydney, NSW] : the Committee, 2021. – 1 online resource ([192] pages). (Report ; 1/57)

<sup>iii</sup> Coates, L., 2018. [The Fact Pattern: An example of improved accuracy and evidence](#). Insight Exchange, Domestic Violence NSW Service Management.

<sup>iv</sup> Safe Lives and Surviving Economic Abuse, 2021. [Domestic Abuse Matters: Evaluation of Economic Abuse Training](#). Safe Lives UK.