

**Criminalising
coercive control:
What is it?
How did we get
here?
Things to watch out
for?**

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New South Wales

**Crimes Legislation Amendment (Coercive
Control) Act 2022 No 65**

Act No 65, 2022

An Act to amend the *Crimes Act 1900* to create a new offence relating to abusive behaviour towards current and former intimate partners; to amend the *Crimes (Domestic and Personal Violence) Act 2007* to provide for a new definition of domestic abuse; and to make consequential amendments. [Assented to 23 November 2022]

“Nothing I could do was right, I was told how to dress, what to wear...When we ate dinner I was made [to] sit at his feet. One night I had said something wrong and he got up in front of the kids and kicked my dinner plate across the room...I was terrified a lot of the time.”

“I felt like I lost myself. I would hold back and compromise my identity to keep him happy and prevent arguments.”

“It’s kind of a death by a thousand cuts.”

What is coercive control?

“Coercive control is exhausting, debilitating, emotional, scary and abusive. But it is very hard to explain [to people outside] as it makes me sound crazy. It is very hard to live through and heal from.”

“Coercive control is silent for most parts. You are dismantled, piece by piece. One day you look in the mirror and you don’t know who you are.”

“I was the classic frog in hot water, not realising the danger until I felt trapped, weak and could see no way out.”

Coercive control is a pattern of abuse that degrades, humiliates and isolates victims, and takes away their freedom and autonomy. It has severe psychological impacts on victims. While it does not always involve physical violence, it is a common factor in intimate partner homicides.

NSW Joint Select Committee (2021), p. 7.

The narrative that emerges from this united voice is that coercive control is a pattern of ongoing and escalating behaviours. Perpetrators use these behaviours to destroy a woman's or girl's self-agency, her sense of safety, and her ability to seek help. These behaviours are supported through structural inequalities that continue to reinforce the self-entitlement of men and boys and their dominance over women and girls.

The Taskforce heard that coercive control is an intrinsic part of domestic and family violence. This challenges the widely held view that domestic violence is about physical abuse. In fact, domestic and family violence is a pattern of behaviour, over time. This means it needs to be considered in the context of the whole relationship, and not as an incident at a single point in time. This revised understanding of domestic and family violence is the fundamental premise for the Taskforce's examination of coercive control and shapes its findings throughout this report.

Qld Women's Safety & Justice Task Force, Report 1 (2021), p. xv.

National Principles to Address Coercive Control in Family and Domestic Violence (2023)

National Principle 1

Shared understanding of the common features of coercive control

A shared understanding of the common features of coercive control is foundational to effectively identifying, preventing and responding to family and domestic violence.

The following are common features of coercive control:

- Coercive control is almost always an underpinning dynamic of family and domestic violence. Perpetrators exert power and dominance over victim-survivors using patterns of abusive behaviours over time that create fear and deny liberty and autonomy.

Not a 'new' thing

- **Coercive control** (eg Dobash & Dobash 1979; Schechter 1982; Stark 2007)
- **Power and control** (eg Pence & Paymar 1993 and the work of Domestic Abuse Intervention Project, Duluth USA)
- **Social entrapment** (eg Ptacek 1999; in Australia Tarrant et al 2019; Douglas et al 2020; Tolmie et al 2024)



Why criminalisation?

Limitations of the traditional approach of the criminal law which:

- *Largely focuses on discrete incidents*
- *Tendency to focus on physical harms*

While some non-physical forms of abuse can be the subject of available criminal offences – apart from the offence of stalking or intimidation – none package the behaviours together as a pattern so that the full spectrum and context of abuse can be seen and addressed.

Intensive debate and activity in Australia from 2020s >>>



Photo by [Joey Csunyo](#) on [Unsplash](#)

The NSW timeline

- **NSW Joint Select Committee on Coercive Control:** est. 21 Oct 2020 - reported 30 June 2021
- **Government Response** 17 Dec 2021 supported 17/23 recs (incl criminalisation)
- **Exposure Bill:** Released 20 July 2022 - Submissions closed 31 Aug 2022
- **Bill introduced to NSW Parliament 12 Oct 2022;** passed on 16 November 2022; Assent 23 Nov 2022: ***Crimes Legislation Amendment (Coercive Control) Act 2022***
- **'Domestic abuse' definition in ADVO legislation** commenced 1 Feb 2024, and the **coercive control offence** ("abusive behaviour towards intimate partners") commencing on 1 July 2024

Offence of 'abusive behaviour towards intimate partners' [s 54D, Crimes Act]

An adult has engaged in a **course of conduct** against their current/former **intimate partner** that consists of "**abusive behaviour**"

+

The person intended the course of conduct to "**coerce or control** the other person"

+

A **reasonable person** test

Not retrospective

There is a **defence available**

Maximum penalty **7 years.**

Questions about the NSW approach

- Requirement of **intent** – whether there should be a lesser mental element?
- Restriction to **intimate relationships** – should other relationships also be covered?
- Concerns about **misidentification** – what about identification?

Critical feature of the Act...

- The incredibly detailed and comprehensive statutory review requirement [s 54J]

- Whether the mental element should include recklessness?
- Whether the offence should cover other relationships?
- The impact on Aboriginal people, CALDS people, LGBTQI+ people
- Whether victims have been misidentified?
- Whether the penalty should be increased?

- What types of behaviour are being prosecuted under the offence?
- Extent to which the offence is being charged on its own
- The use of the defence
- Whether the use of the offence varies across the state?
- The impact of the definition of 'domestic abuse' in the ADVO Act
- Number of cases proceeding, outcomes, how long are they taking to finalisation

What about implementation?

- Coercive Control Implementation and Evaluation Taskforce established Dec 2022.
- Supported by 10 sector-specific reference groups
- Three reports which detail work done to date

See <https://dcj.nsw.gov.au/children-and-families/family-domestic-and-sexual-violence/police--legal-help-and-the-law/criminalising-coercive-control-in-nsw/coercive-control-implementation-and-evaluation-taskforce.html>

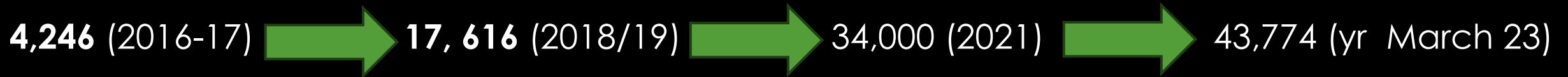
What do we know about how these types of offences have been operating overseas?

- ***Serious Crimes Act 2015 (Eng & Wales), s 76***
- ***Domestic Abuse (Scotland) Act 2018, s 1***
- *Domestic Violence Act 2018 (Ireland), s 39*
- *Domestic Abuse and Civil Proceedings Act (Northern Ireland) (2021), s 1*

Reporting over time, but attrition high

England and Wales

- Police recording offence as CCB



- BUT – prosecutions...



- Gender of victims

Vast majority of victims of the CCB offence are women – around 93-94%.

Data from Scotland

- Police Scotland recorded 64,807 incidents of domestic abuse (2021-2022)
- 39% of which involved the recording of 1+ crimes/offences – only 4% of which were recorded as involving the DASA offence
- For the DASA offence 92% victims are women

	2019-20	2020-2021
Number of people proceeded against	252	420
Number that resulted in a conviction	212 (84%)	383 (91%)
Number of matters dealt with in • <i>Sherriff summary court</i>	232 (92%)	373 (89%)

Findings from the developing body of research on these offences

- Lack of attention to the criminal legal process
- Education and training necessary to address stereotypes and myths about genuine victims of coercive control
- Need to focus on the everyday experience of coercive control, and not just exemplar cases
- Police still tending to focus on incidents, and physical violence
- Research that identifies missed opportunities to charge the offence – represent an opportunity to improve police practices
- Educative function of these laws for all key professionals
- Misidentification has not emerged as an issue overseas

A final word...

The critical importance of taking practice and implementation very seriously – this is where the law comes to life and where it is experienced by victims and perpetrators