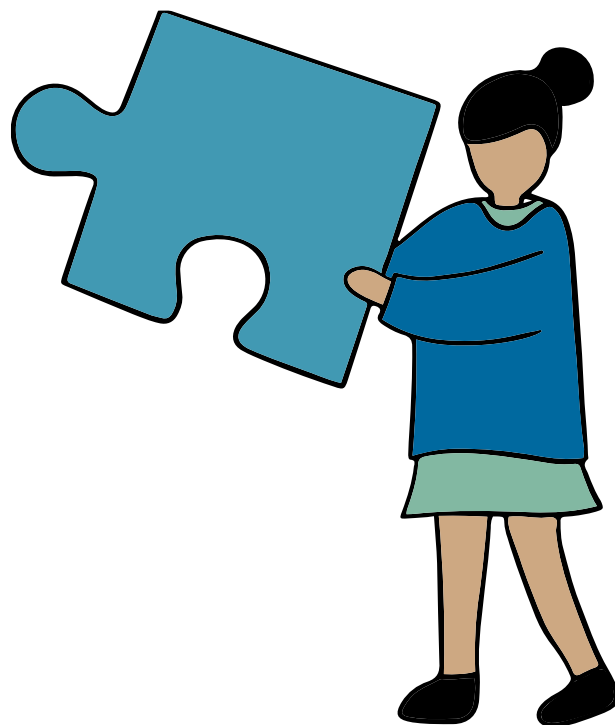


Crimes Legislation Amendment (Coercive Control) Bill 2022

September 2022



D O M E S T I C
V I O L E N C E
N S W

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Acknowledgement

This report was written on the stolen and unceded lands of the Gadigal People of the Eora Nation. We pay respects to the Elders past, present and emerging.

Domestic Violence NSW would like to acknowledge Aboriginal and Torres Strait Islander people across the breadth and depth of Australia. We recognise that Aboriginal and Torres Strait Islander people have lived and cared for Country for over 65,000 years and continue to do so, honouring ancestors and knowledge holders within community, and observing ancient cultural practices.

We would like to recognise the impacts of colonisation and the ongoing systemic racism and oppression that is still present within institutions and the broader community.

We acknowledge the strength and resilience of Aboriginal and Torres Strait Islander people and hold their stories with great care.

We concede that Aboriginal and Torres Strait Islander women are at the highest risk of sexual, family and domestic violence compared with other women in Australia. We acknowledge that domestic and family violence are not part of Aboriginal culture.

Domestic Violence NSW work to position ourselves as allies, to walk alongside, to listen, to give our voice and strength, to respect, to never forget and to learn from past mistakes.



About Domestic Violence NSW

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Domestic Violence NSW (DVNSW) is the **peak body for specialist domestic and family violence (DFV) services in NSW**. We have over 135 member organisations across NSW. We work to improve policy, legislative and program responses to domestic and family violence and to eliminate DFV through advocacy, partnerships and promoting good practice.

DVNSW members represent the diversity of specialist services working in NSW to support women, families and communities impacted by domestic and family violence. They are non-government-funded organisations. Our member organisations include crisis and refuge services, transitional accommodation and community housing providers, family support services, Aboriginal controlled organisations and specialist CALD organisations, specialist homelessness service providers, men's behaviour change programs and networks, community organisations working with high-risk communities, specialist women's legal support services, women and children's support services, and Safe at Home programs.

DVNSW gives the NSW Department of Communities and Justice permission to publish this submission publicly.

This submission is representative of DVNSW's 135+ member services.

Endorsements

DVNSW endorses the following submissions in full:

- Dr Jane Wangmann, University of Technology Sydney
- NSW Women's Legal Service
- Wirringa Baiya

This submission is endorsed by:

- Illawarra Womens' Health Centre
- Mission Australia
- Youth Law Australia

And supported by DVNSW over 135 member organisations.

Executive summary

DVNSW does not support the draft exposure bill in its current format.

DVNSW has three main concerns with the draft Bill:

- 1. The lack of a singular, concise definition of coercive control,**
- 2. The omission of family and other violence,**
- 3. The absence of an independent coercive control implementation taskforce prior to the bill reaching parliament.**

These concerns are held by over 220 domestic and family violence workers and advocates from around New South Wales, and the membership of the NSW Women's Alliance.

Whilst DVNSW supports the NSW Government's efforts to respond to patterns of coercive control, it does not believe the current drafting of this legislation will lead to improved outcomes for victim-survivors of domestic and family violence or reduced homicides.

In addition, DVNSW is also concerned about the short timeframe for consultation and believes that further consultation is necessary. DVNSW urges the NSW Government to learn from the experience of other jurisdictions that have introduced coercive control legislation by taking time to ensure the legislation is drafted effectively.

It is essential that the NSW government maintain the wellbeing and safety of victim-survivors of all ages, genders and cultural backgrounds central to the drafting of this bill. DVNSW is concerned that victim-survivors have been left out of the consultation process. **A second round of targeted consultations that includes people with lived experience of coercive control and engages with the justice system on the amendments made to the first draft of the exposure bill is needed.** In addition, a staged and considered approach is integral in order to mitigate risks such as increased misidentification of the primary aggressor and lack of inclusion of priority populations and to ensure we are learning from other jurisdictions such as Scotland, where the initial review of the legislation has not yet been released.

DVNSW is concerned that many of the recommendations of the Joint Select Committee Inquiry into Coercive Control (the Inquiry) have not been heeded in the implementation of this reform; namely to begin with the Apprehended Domestic Violence Order (ADVO) legislation. DVNSW is **concerned with the narrow focus on intimate partner violence and the confusion which will be caused by different definitions in the *Crimes (Domestic and Personal Violence) Act 2007* and the *Crimes Act 1900*** and recommend broadening the scope.

DVNSW call for the **immediate formation of an independent taskforce to oversee implementation** including consultation, drafting, and community education.

DVNSW recommends **a focus on cultural reform including a legislative requirement to table a report to NSW Parliament** outlining the steps taken towards cultural and systems reform implementation prior to the commencement of this new offence.

Further, it is **essential that children and young people are kept in view** - the interests of children and young people, how this legislation interacts with other legislation impacting children and young people,

and reconsidering using the wording of threats/withdrawal of children to prevent unintended consequences for protective parents, particularly in the family law system.

Key recommendations

Recommendation 1: DVNSW strongly recommends a staged approach to the criminalisation of coercive control that is in line with the recommendations made by the Joint Select Committee.

Recommendation 2: Extend the consultation period by at least 6 months. This should be further extended if there is a delay in the finalisation of the National Principles, or if significant legislative or practice concerns are raised with the amendments to the Crimes (Domestic and Personal Violence) Act. At an absolute minimum there should be a further consultation round on an updated Bill prior to the Bill being introduced into Parliament.

Definition and introduction of coercive control to ADVOs

Recommendation 3: Introduce a contextual definition of “domestic and family abuse” into the Crimes (Domestic and Personal Violence) Act 2007 which governs our Apprehended Domestic Violence Orders (ADVOs). The purpose of a contextual definition is also to move away from an incidents approach. This needs to occur as a priority, prior to the introduction of a stand-alone coercive control offence and have the independent implementation taskforce closely monitor its impact.

- a. The terms “coerces”, “controls” and “financial and economic abuse” should be defined under Section 3 of the Crimes (Domestic and Personal Violence) Act 2007. The definition of “coerces” or “controls” could draw on the “relevant effects” outlined in section 2(3) of the Domestic Abuse (Scotland) Act 2018 and would benefit from further consultation, including with priority populations and people with lived experience.

Recommendation 4: The proposed definition should be open for further consultation beyond this consultation to ensure all stakeholders have the time and capacity to carefully consider the legislation, potential ramifications, and unintended consequences before it is introduced.

Recommendation 5: Amend Section 16 (1) and Section 49 to ensure the definition is independently functional under the Act, forming the basis for ground for an ADVO, and as a specific basis for which police can make an application for an ADVO, and further consider redefining “domestic violence offence”.

Recommendation 6: DVNSW endorses WLS’s recommendation to review of the Crimes (Domestic and Personal Violence) Act.

Recommendation 7: In proposed s6A after a contextual definition, consider a single list of examples or some examples and definitions of terms which include examples, for example, a definition of economic and financial abuse and emotional or psychological abuse. Clearly state the examples are a non-exhaustive list.

Recommendation 8: Amend:

- a. proposed section 6A (2) of the Crimes (Domestic and Personal Violence) Act to be more inclusive of other forms of abuse experienced by priority populations including:
 - i. reproductive coercion,
 - ii. immigration abuse,

- iii. specific abuse within the LGBTQIA+ community such as outing or threats to out or misgender or other identity-based abuse, and
 - iv. systems abuse.
- b. In subsection (h), amend to “preventing the second person from, or forcing the second person to-”
- c. In subsection (h) (i), amend to “making or keeping connections with the person’s or another person’s family, friends or culture, or”
- d. In subsection (h) (iii), amend to “expressing the person’s or any other cultural identity”

Recommendation 9: Amend legislation and policy to stipulate a protection order be made for the person “most in need of protection”.

Cultural reform and training

Recommendation 10: Significantly invest in police cultural and system reforms, including,

- a. Regular and ongoing training for all police in how to identify and respond to domestic and family abuse, trauma-informed, culturally safe, disability aware and LGBTQIA+ aware practice that is informed by the lived experiences of victim-survivors and also addresses conscious and unconscious bias. Police training about domestic and family abuse needs to be developed and delivered with significant input from and co-facilitation with sexual, domestic, and family abuse experts, cultural safety experts, disability experts, LGBTQIA+ experts and specialist legal services and should primarily be face-to-face training. Current training must be evaluated for its effectiveness and any future training must also be regularly evaluated for its effectiveness. Evaluation reports must be made public.
- b. Establish training and guidelines to assist police in accurately identifying the person most in need of protection and the predominant aggressor, including working with specialist sexual, domestic and family violence services to assist with accurate identification as recommended in the Family Violence Reform Implementation Monitor report: Monitoring Victoria’s family violence reforms Accurate identification of the predominant aggressor (2021).
- c. Increase resourcing for sexual, domestic, and family violence specialisation in the NSW Police Force. Resourcing should also be directed to bringing the date of completion of the Integrated Police Operating System (IPOS) forward. Further details on the need for increased resourcing for the NSW Police Force can be found in the Auditor-General’s report into police responses to domestic and family violence.
- d. Fund the state-wide, 24-hour, extension of the NSW police/Women’s Domestic Violence Court Advocacy service co-responder pilot, subject to positive evaluation. Increase training and support for police in identifying and responding to vicarious trauma.
- e. Establish information technology systems that enable police easy access to information about history and context of previous violence and abuse.
- f. Develop a joint protocol between charging police and Police prosecutors to ensure and early flagging of coercive control charges with Police Prosecutors and appropriate oversight of matters, with further investigation where appropriate.
- g. Publish the results of regular audits of policing of sexual, domestic, and family abuse and steps police need to take for continuous improvement.
- h. Ensure the NSW police develop clear and transparent policy and procedures to ensure safe reporting and response to allegations of police employees’ perpetration of domestic and family

abuse and address conflict of interest issues which must include independent oversight of such investigations.

Recommendation 11: Significantly invest in broader cultural and systems reform including:

- a. Implement a robust and effective whole-of-government risk assessment and management framework, including comprehensive training for the service sector and police.
- b. All workers across all disciplines should meet minimum practice standards in working with victim- survivors and those who use domestic and family abuse. Meeting additional practice standards should be required for those specialising in responding to sexual, domestic, and family abuse. We note [DVNSW Good Practice Guidelines](#).
- c. Training to support these practice standards must be up-to-date, evidence-based, developed by sexual and domestic abuse experts, culturally safe, disability aware, LGBTIQ+ aware and ongoing and jointly delivered by relevant agency/ department and sexual and domestic abuse experts.
- d. Proper resourcing of the sexual, domestic, and family abuse sector and other sectors to be able to adequately respond to sexual, domestic, and family abuse and to ensure an integrated, holistic response.
- e. Introduction of a Lived Expertise Advisory Group to the NSW Government representing a diversity of ages, backgrounds, and life experiences to embed lived expertise policy advice into the work of government
- f. Community awareness campaigns, co-designed and co-delivered with sexual, domestic, and family abuse experts including lived experience experts and priority populations

Recommendation 12: Significantly invest in court and wider legal system cultural and system reforms, including,

- a. Strongly consider Chief Magistrate Judge Johnstone's proposal for a fourth tier of the NSW Justice System to relieve magistrates of primarily administrative matters.
- b. Regular and ongoing training for judicial officers, legal practitioners, court staff and interpreters in how to identify and respond to domestic and family abuse, trauma-informed, culturally safe, disability aware and LGBTIQ+ aware practice that is informed by the lived experiences of victim-survivors and also addresses conscious and unconscious bias. Training about domestic and family abuse needs to be developed and delivered with significant input from and co-facilitation with sexual, domestic, and family abuse experts including lived experience experts, cultural safety experts, disability experts, LGBTIQ+ experts and specialist legal services and should primarily be face-to-face training.
- c. There must also be compulsory training in identifying and responding to domestic and family abuse and identifying and responding to trauma for law students.
- d. Training and support for actors in the legal system in identifying and responding to trauma and vicarious trauma.
- e. Implement ANROWS recommendation for greater role clarity and accountability of police and the courts with safeguards to address misidentification.

Safeguards and Accountability

Recommendation 13: Publish annual reports about the operation of the new definition of domestic and family abuse in the *Crimes (Domestic and Personal Violence) Act 2007*, where domestic and family abuse is a ground for an ADVO.

Recommendation 14: Publish annual reports about the operation of the new offence.

Recommendation 15: Include a legislative requirement for regular and ongoing statutory reviews following commencement, with the first review no more than 18 months after commencement. Ongoing legislative reviews past the first review must commence every 2 to 3 years after the commencement of the previous review, or earlier if an issue of concern is identified with a report, tabled in each House of Parliament within 12 months of the commencement of each review.

Recommendation 16: Add to the legislation the elements which should be included in the statutory review to ensure a comprehensive review. This includes an assessment of the effectiveness of training as included for the sexual consent reforms and consideration of provisions in Scotland's legislation.

Recommendation 17: Immediately establish an independent, multi-agency taskforce to oversee the consultation on draft legislation, implementation, and ongoing review of the legislation.

Recommendation 18: Develop a regular feedback mechanism for the legislation on a local level between support services, namely Women's Domestic Violence Court Advocacy Services and police.

Recommendation 19: Include a legislative requirement to table a report to Parliament outlining the steps taken towards cultural and systems reform implementation prior to the commencement of a new offence. Include a provision to mandate delay of the commencement date if implementation preparation is insufficient (NSW Women's Alliance, [Action to End Gendered Violence, 2022](#)).

Recommendation 20: A stand-alone coercive control offence does not commence until at least 2 years from the passing of legislation and subject to successful implementation of cultural and systems reform outlined.

Recommendation 21: Commission research to measure outcomes, use, and effectiveness of a contextual definition of domestic and family abuse. This work needs to be commissioned immediately so there are systems in place to collect the necessary data prior to commencement of the criminal offence.

Coercive Control Criminalisation

Recommendation 22: Expand the legislation to include all domestic relationships, not just intimate partner violence.

Recommendations 23: Redraft proposed section 54F(2)(a) to clearly exclude protective parents withholding children from contact for safety reasons.

Recommendation 24: Ensure in depth stakeholder engagement on the issue of children and draft coercive control legislation to ensure recommendations create safer outcomes for children.

Recommendation 25: Increase diversionary options and supports for harmful behaviours available for perpetrators of coercive control under the age of 18.

Recommendation 26: The independent implementation taskforce considers the practical application of defences and closely monitor defences used for adverse outcomes.

Recommendation 27: Add examples of defences in 54E, much like the examples in 54F (2) (g), focusing on the reasons that acts by victims of domestic violence to attempt increased safety may in practice restrict perpetrators.

Recommendation 28: Amendments to bench books and training delivered to magistrates must address the concerns of the definition of a reasonable person, as well as how easily a perpetrator of coercive control may be able to manipulate the facts to make themselves look entirely reasonable.

Recommendation 29: The NSW Government give consideration to making the offence of abusive behaviour retrospective.

Recommendation 30:

- a. More closely align the definition of “abusive behaviour” under proposed section 54F of the *Crimes Act* with the definition of “domestic abuse” in proposed section 6A of the *Crimes (Domestic and Personal Violence) Act*, including ensuring it is a contextual definition.
- b. Move the definition of “abusive behaviour” into proposed section 54D of the *Crimes Act* so the definition is understood in the context of the elements of the offence.
- c. Consider adopting an effects approach as Scotland does rather than listing examples of abusive behaviour.
- d. If retaining the list of examples approach, consider moving s54F(2)(g) to s54F(1) as part of a contextual definition.
- e. Specifically name sexual violence as an example of abusive behaviour.
- f. Define “coercion” and “control” and “mental harm” (or use the term “psychological harm” and define this).
- g. In s54D(1)(d)(i) use the term “abusive behaviour” rather than “violence”.
- h. Include wording in the legislation that stand-alone coercive control offence commences upon proclamation at least 4 years after the passing of legislation and subject to taskforce reports noting the successful implementation of cultural and systems reform

A note on terminology

Domestic violence

Interpersonal violence or abuse perpetrated by an intimate partner or ex-partner. Domestic violence can include a variety of forms of abuse including but not limited to physical, sexual, psychological, financial abuse, stalking and intimidation. Domestic violence extends beyond physical violence and frequently involves the exploitation of power imbalances and patterns of abuse.

Family violence

Violence perpetrated by a family member, carer, guardian, child or kinship carer. Family violence can include a variety of forms of abuse including but not limited to physical, sexual, psychological, financial abuse, stalking and intimidation. Family violence extends beyond physical violence and frequently involves the exploitation of power imbalances and patterns of abuse.

Gendered violence

Gendered violence or gender-based violence refers to harmful acts directed at an individual or a group of individuals because of their gender. It is rooted in gender inequality, the abuse of power and harmful norms. The term is primarily used to draw attention to the fact that structural, gender-based power differentials place women and girls at risk for multiple forms of violence. While women and girls suffer disproportionately from gendered violence, men and particularly boys can also be victims. The term is inclusive of LGBTIQ+ populations, referencing violence related to norms of masculinity/femininity and/or gender norms.

Intimate Partner Violence (IPV)

Abuse perpetrated by a current or former intimate partner such as a partner, husband, wife, girlfriend, boyfriend, or person who someone is dating. Forms of violence are listed under domestic violence.

People with lived expertise

People with lived expertise are people who have experience of sexual, domestic and/or family violence whose expertise as context experts due to their lived experience is noted.

Specialist sexual, domestic, and family violence sector

The specialist sexual, domestic, and family violence sector includes crisis and refuge services, transitional accommodation and community housing providers, family support services, Aboriginal controlled organisations, specialist multicultural community organisations, specialist LGBTIQ+ organisations, counselling services, sexual violence services, specialist homelessness service providers, men's behaviour change programs and networks, community organisations working with high-risk communities, specialist women's legal and support services, women's health centres, women and children's support services, Safe at Home programs and the Women's Domestic Violence Court Advocacy Services.

Victim-survivor

Victim-survivor refers to a person who is being or has experienced violence, acknowledging that people who have been victimised are survivors and are also victims of crime. We acknowledge that people who have been victimised are survivors and are also victims of crime. This is not intended as an identity term. In the specialist domestic and family violence sector, the preferred term is victim-survivor.

DVNSW notes that the justice sector and legislation use the term victim. In this submission, although used interchangeably, the emphasis has been placed on the term victim-survivor, with victim used at times particularly when discussing the justice system or legislation.

1. Consultation and timeframes

One recommendation has been consistent throughout all submissions from the specialist domestic and family violence sector to the Joint Select Committee Inquiry on Coercive Control (2021): any criminalisation process must be slow, staged, and couched within a suite of other reforms and initiatives. This was recognised by the Inquiry's report in several recommendations.

Recommendation 1 detailed that "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" (Parliament of New South Wales, 2020, p. 1). Stakeholders and the frontline sector have advocated, clearly and consistently, that consultation for this draft bill has not been sufficient. An open letter sent to Minister Ward and the Attorney General on 26th July 2022, with 62 signatories including previous Australian of the Year Rosie Batty, urgently requested an extension to the consultation period for the public exposure bill to criminalise coercive control. The NSW Government chose not to extend.

It must also be noted that Recommendation 1 states "the NSW Government should respond to the Domestic Violence Death Review Team (DVDRT) evidence, by criminalising coercive control". However, it is important to note that, while the DVDRT do state in their submission to the Joint Select Committee that "coercive control is a feature of a considerable proportion of domestic violence homicides that occur in New South Wales", they do not advocate for the criminalisation of coercive control in their submission, nor in their 2017-2019 report. Rather, the DVDRT recommends:

That the Department of Communities and Justice examine the extent to which existing NSW laws (criminal and civil protection orders) respond adequately to non-physical forms of domestic and family violence and to patterns, rather than incidents, of violence. This examination should include:

1. a qualitative review conducted with NSW Police about what forms of behaviour are being targeted under the offence of 'stalking or intimidation', whether such charges are laid on their own or in combination with other offences, and the relationship context of such offences; and
2. monitoring the progress and implementation of offences of coercive control and domestic abuse in other jurisdictions

The qualitative review being performed by NSW Bureau of Crime Statistics and Research (BOCSAR) on stalking and intimidation that responds to the first part of the DVDRT recommendation is still ongoing and is not expected to be completed before this draft bill is expected to be introduced into NSW Parliament. As a result, we are unable to examine the results and are not afforded the time required to implement changes to current systems based on the findings of these reviews. The second part of the DVDRT's recommendation to monitor progress and implementation has not been adequately met, as evaluations of the implementation of offences of coercive control and domestic abuse in other jurisdictions are only starting to emerge.

There is currently work ongoing at a national level that will not be completed by the end of the NSW Government's timeframe. The Attorneys-General agreed upon National Principles of Coercive Control in

the 12th August meeting. The consultation process for these National Principles is expected to commence in September 2022, with the final National Principles being released in early 2023.

During the six-week consultation period on this draft exposure bill, there have been repeated calls from experts and the specialist domestic and family violence sector to extend the consultation period. Two open letters are provided in the Appendix to this submission (Appendix A, Appendix B).

In Minister Ward's response to the NSW Women's Alliance's open letter she wrote,

"In acting to criminalise coercive control, NSW is fortunate that we are able to build upon and learn from the significant and substantial experiences, drafting and jurisprudence of jurisdictions which have legislated before us, including but not limited to England and Wales, Northern Ireland, Scotland and Tasmania."

However, DVNSW would argue that the NSW Government implementation timeframe does not allow for adequate incorporation of the lessons learnt in other jurisdictions. For example, in Tasmania, the two criminal offences of Economic and Emotional Abuse, which were introduced in 2005, have very rarely been prosecuted. As explained by Barwick et al. (2020), by the end of 2017, 12 years after the offences were introduced, only 73 charges have been finalised. Of these, only six charges were proven by the court; 34 charged were pled guilty to, two charges were dismissed, and a significant 31 charges were withdrawn. The legislation also received criticism for the scope and evidential difficulties, with little evidence to demonstrate the offences are well understood (McMahon and McGorrey, 2016). If the legislation is not well understood in Scotland, even after a significantly longer consultation and training process than proposed by NSW, then NSW should be cautious about rushing into these reforms.

In their submission to the Joint Select Committee, Tasmania Police (2021, p. 2) stated:

There are a number of reasons for [the very few prosecutions of Economic and Emotional Abuse], including a lack of community awareness of the offences and the difficulty posed to first responding police in identifying course of conduct offending. Until recently prosecutions were handicapped by a statutory time limitation of six months for laying complaints. This was amended in 2015, and since then there has been a significant increase in prosecutions and convictions. This also relates to an increased focus on training for police officers in respect to these types of offences and a greater awareness of these behaviours through community education.

While there were legislative challenges that assisted, Tasmania Police clearly stipulate that police and community education and awareness were the key elements that were required to improve the prosecution rates of the offence. While more work needs to be performed in Tasmania to examine exactly why the offences are not functioning in the way they have been designed to, the lessons that we do have from Tasmania are clear: we cannot criminalise first and educate later.

Similar findings have come out of preliminary data in the UK and Ireland. From 2018-2019, only 6% of Coercive and Controlling Behaviour offences resulted in a charge, an overwhelming 86% of which were withdrawn due to evidential difficulties.

Incorporation of initial learnings from Scotland

The jurisdiction that has been deemed the ‘gold standard’ by many for its response is Scotland. However, the pace of the NSW Government reform prevents learning from the Scotland experience, as many of the Scotland learnings are still forthcoming.

An extensive evaluation is expected imminently from the University of Edinburgh, however the global court delays experienced during the COVID-19 pandemic lockdowns have significantly delayed the research, as the matters are still making their way through backlogged courts. While we may initially take heart from the preliminary figures currently available from Scotland that court proceedings were commenced in 95% of *Domestic Abuse (Scotland) Act 2018* (DASA) charges reported to the Crown Office & Procurator Fiscal Service, and 95% of the accused were male, our differing rules of evidence tell a different story.

Scots Law has a unique feature of The Corroboration Rule, where “an accused cannot be convicted of a crime, unless the essential facts of the crime are able to be established by evidence from at least two independent sources” (Scottish Government, 2021, p. 28). The rule is in place primarily to prevent miscarriages of justice and incorrect convictions based on the account of a single witness. The differing rules of evidence means that the above figures that would otherwise be encouraging for concerns around misidentification become far less relevant in the NSW context. Scotland also had far fewer provisions in the area of protection orders before DASA than NSW, lacking the same protections that ADVOs afford. This meant that the DASA legislation was more imperative in Scotland, due to the lack of alternative protections. We require much more extensive analysis and evaluation of the DASA charges, and the holistic circumstances around these charges, before we can conclude that we have learned lessons from Scotland.

Further, in their submission to the Joint Select Committee, the DVDRT (2021, p. 4) warned about simply replicating laws from one jurisdiction to the next due to the consequences this could have in Australia, specifically the risk of further criminalising already over-policed populations.

This is likely to be particularly relevant in the Australian context, where the further criminalisation of domestic violence behaviours may have unanticipated consequences for populations that may already be vulnerable to over-policing, and institutional bias and discrimination, or disproportionately affected by increased ‘law and order’ responses to domestic violence, particularly First Nations Australians.

The diverse populations in Australia, such as First Nations Australians and migrant and refugee populations, who are most likely to be misidentified under current and the draft legislation, are missing from the Scottish context. As such, we have unique challenges in regards to this legislation that cannot be resolved from overseas examples.

The most recent piece of research from Scotland was published after the NSW exposure draft bill was released for consultation. The work performed by Lombard, Proctor and Whiting (2022) is a part of the prescriptive statutory reviews required for DASA, ensuring that victim-survivors’ experiences are highlighted. The study has several limitations, including a sample size of 29 women, and being undertaken during the pandemic. However, the research provides useful insights. Lombard, Proctor and Whiting (2022) found that of 29 women who made reports under the DASA legislation, approximately

half did not see an arrest or charge. The authors found that women were often left feeling like the entire process had been a waste of their time, sentences were too lenient, their experiences of abuse were minimised in the criminal justice system, they felt unsafe throughout the process, and some participants stated they now feel less safe at the end of the process than they did before they reported.

The overall concluding statement of Lombard, Proctor and Whiting (2022, p. 9) is incredibly telling:

Overall, this research concludes that it is too early to evaluate the effectiveness of the legislation, especially as its inception happened shortly before the COVID 19 pandemic. However, to date, the findings from this small sample of victims/survivors do not show any substantive evidence of DASA having had a positive impact on practice and women's experiences of the criminal justice system.

As such, research released after the consultation of the exposure draft bill commenced is concluding that it is too early to evaluate the effectiveness of the Scottish legislation. It is not possible, then, for the NSW Government to assert that we have learned enough from Scotland to expedite the reform, when Scottish experts themselves are stating that they don't know if the legislation is effective.

In her presentation at the Coercive Control forum co-hosted by DVNSW and Wirringa Baiya on 20th July 2022, Marsha Scott from Scottish Women's Aid clearly stated that significant time must be taken in the drafting stage to ensure the legislation is right. This is a clear lesson that has emerged from the Scottish experience. While the NSW Government has advised a proclamation period of 'at least 12 months' DVNSW asserts that this is not enough time to implement such complex legislation and undertake the systems and cultural reforms required.

A second clear lesson from Scotland is that it is "feminist activism, more than any other single factor, that has introduced and improved policy on violence against women" (Scott & Rich, 2021, p. 593). The reason for this is that feminist activists do not work for political or economic agendas; they work for the sole purpose of improving the safety of women and their children. Feminist non-government organisations perform advocacy that reflects the "inextricable link between systemic and structural sexism and the dynamics and prevalence of coercive control and domestic abuse" (Scott & Rich, 2021, p. 607). As such, Scott & Rich (2021) state that 'gold standard' domestic abuse legislation, informed by a sound gendered analysis, can be produced through working with feminist non-government organisations, such as DVNSW.

As such, the feminist, specialist domestic and family violence sector in NSW wants to work with the NSW Government to improve the NSW criminal justice system for women and children. To enable this work to be done, the implementation of the coercive control legislation needs to allow for iterative feedback from the specialist domestic and family violence sector over a considered period of time. The speed at which the current legislation and subsequent processes are proceeding are potentially dangerous, exclusionary, and likely to result in an unacceptable level of harm to the very victim-survivors we all aim to assist.

Recommendation 1: DVNSW strongly recommends a staged approach to the criminalisation of coercive control that is in line with the recommendations made by the Joint Select Committee.

Recommendation 2: Extend the consultation period by at least 6 months. This should be further extended if there is a delay in the finalisation of the National Principles, or if significant legislative or practice concerns are raised with the amendments to the *Crimes (Domestic and Personal Violence)*

Act. At an absolute minimum there should be a further consultation round on an updated Bill prior to the Bill being introduced into Parliament.

2. A staged approach: Definitions and introduction of coercive control to ADVOs

DVNSW strongly advocates for a phased approach to criminalising coercive control, starting with additional consultation, the introduction of a definition of domestic and family abuse which includes coercion in the *Crimes (Domestic and Personal Violence) Act 2007* followed by an evaluation of its effectiveness.

Of particular importance for Aboriginal and Torres Strait Islander communities are concerns with unintended consequences. DVNSW suggest further consultation on introduction of the current draft legislation, as well as changes to the ADVO legislation, centre thorough consultation with Aboriginal experts and community leaders. Organisations such as Wirringa Baiya have raised significant concerns that include how coercively controlling behaviours in the *Crimes (Domestic and Personal Violence) Act 2007* will disproportionately affect First Nations women and have significant flow on effects, such as with child protection matters (Wirringa Baiya submission, 2022). It is of significant concern that, when asked what, “mechanisms are in place to ensure that this new offence does not further contribute to the crisis of Indigenous incarceration in New South Wales” during the Attorney General’s budget estimates session on 22nd August 2022, the Attorney General’s response was “I don’t know that-” (Legislative Council, 2022, p. 12). It is imperative that modelling and research is undertaken to ensure that we do know the answer to these questions before legislation is amended. Responses such as these and the short consultation period add to the First Nations community’s concerns that the adverse effects within their community have not even been considered let alone mitigated against. We also note Women’s Legal Service’s submission that detail further concerns around the misidentification of First Nations women in regards to the charges of ADVO breaches.

DVNSW has long advocated for a definition of domestic and family violence to be included into NSW legislation and for national parity across jurisdictions. This is consistent with the New South Wales Law Reform Commission’s recommendation that a definition of coercive control be added into the *Crimes (Domestic and Personal Violence) Act 2007* and be grounds for the application of an ADVO (NSWLRC, 2003). One clear, consistent definition of coercive control will improve a common understanding of domestic and family abuse and the overarching framework of domestic and family abuse as one of power or control or coercion or causing fear. However, DVNSW is concerned that the framing of this definition in the draft bill requires significant review and clarification.

DVNSW recommends there is one definition of domestic abuse. The current proposal in the draft bill for differing definitions for domestic abuse under the *Crimes (Domestic and Personal Violence) Act 2007* and abusive behaviour under the *Crimes Act 1900* is unnecessarily confusing. This is partially for legislative reasons, but also because the rationale for a definition of domestic abuse being *not purely* for legislative purposes. Rather, as per Heather Douglas’s (2020, p. 5) submission to the Joint Select Committee a consistent definition of domestic abuse,

‘would be used by health, education, child protection, policing, corrections and legal processes (such as sentencing, bail and evidence). If there was a single, clear definition used across all areas of response and service provision this would assist in ensuring there was agreement and broader understanding about the definition. It would assist in campaigns around broader public education and in professional training’.

The legal and social confusion can be demonstrated through the examination of economic abuse. The definition provided in section 54F of the *Crimes Act 1900* examines economic abuse under Section 54F (2) (g), providing three examples:

- Making unreasonable demands on how a person exercises the person's financial, personal, sexual or social autonomy and making threats of negative consequences for failing to comply with the demands.
- Withholding financial support necessary for meeting the reasonable living expenses of a person, or another person living with or dependent on the person, in circumstances in which the person is dependent on the financial support to meet their living expenses.
- Preventing or unreasonably regulating a person from having access to the person's financial assets, including financial assets held jointly with another person.

Alternatively, Section 6A (2) of the *Crimes (Domestic and Personal Violence) Act 2007* defines economic abuse as,

(f) unreasonably denying the second person the financial autonomy the person would otherwise have,

(g) unreasonably withholding financial support needed to meet the reasonable expenses of the second person, or the person's child, at a time when the person is entirely or predominantly dependent on the first person for financial support.

The definition in its current format is also missing key forms of violence, such as reproductive coercion, systems abuse such as immigration abuse, specific abuse within the LGBTQIA+ community such as threats to 'out' a person or misgender them, threats to harm animals and forcing a person into cultural or familial connections as well as withholding them from those connections.

DVNSW recommends that the NSW Government align the definitions in the proposed Section 6A of the *Crimes (Domestic and Personal Violence) Act 2007* and proposed Section 54F (2)(g) of the *Crimes Act 1900* to create one clear, consistent definition of domestic abuse, which includes coercive and controlling behaviour. DVNSW recommends that further consultation is required on the definition that should be inserted in the *Crimes (Domestic and Personal Violence) Act 2007*, to ensure all stakeholders have the time and capacity to carefully consider the legislation, potential ramifications, and unintended consequences before it is introduced. Further, a single list of examples, or some examples and definitions of terms which include examples, should be considered after the definition, which should be clearly stated is a non-exhaustive list.

The proposed definition in the *Crimes (Domestic and Personal Violence) Act 2007* needs to do more work. Currently, it does not form the grounds for the making on an ADVO, only slightly expanding the offences included in the definition of a 'domestic violence offence' in Section 16. However, for the definition to function appropriately both as an educative tool and legislatively, the definition itself must be a ground for the making of an ADVO. Further amendments would need to be made to Section 16 (1) and Section 49 to ensure the definition is independently functional under the *Crimes (Domestic and Personal Violence) Act 2007*, forming the basis for ground for an ADVO, and as a specific basis for which police can make an application for an ADVO. DVNSW also support Women's Legal Service's (WLS) recommendation to review of the *Crimes (Domestic and Personal Violence) Act*, to ensure contextual

understandings of domestic violence situations, rather than continuing to view domestic violence as incident based.

The staged approach recommended by DVNSW is reflective of the NSW Government's own Joint Select Committee recommendation, that "the NSW Government should propose amendments to the *Crimes (Domestic and Personal Violence) Act 2007* to create a clear and accessible definition of domestic abuse, which includes coercive and controlling behaviour. This should be done as a priority, **before criminalising coercive control**" (Parliament of New South Wales, 2020, p. 25, emphasis added). This is currently being completed *alongside* the criminalisation of coercive control, not before it. The reasoning for the Joint Select Committee's recommendation that amendments be made to the *Crimes (Domestic and Personal Violence) Act 2007* before criminalisation were clearly set out by the Joint Select Committee (Parliament of New South Wales, 2020, p. 29):

"Many suggested that ADVO legislation should be expanded as a priority, while consultation is ongoing in relation to introducing a criminal offence. Even participants with reservations about introducing an offence described this as a 'good first move', and a step that could be taken 'fairly swiftly'. The Committee supports this approach, and recommends that the NSW Government should amend the CDPV Act as a matter of urgency."

While this recommendation was not endorsed by the NSW Government, it is important to note that it is strongly advised by specialists and is a finding of the NSW Government's own report.

Recommendation 3: Introduce a contextual definition of "domestic and family abuse" into the *Crimes (Domestic and Personal Violence) Act 2007* which governs our Apprehended Domestic Violence Orders (ADVOs). The purpose of a contextual definition is also to move away from an incidents approach. This needs to occur as a priority, prior to the introduction of a stand-alone coercive control offence and have the independent implementation taskforce closely monitor its impact.

- a. **The terms "coerces", "controls" and "financial and economic abuse" should be defined under Section 3 of the *Crimes (Domestic and Personal Violence) Act 2007*. The definition of "coerces" or "controls" could draw on the "relevant effects" outlined in section 2(3) of the *Domestic Abuse (Scotland) Act 2018* and would benefit from further consultation, including with priority populations and people with lived experience.**

Recommendation 4: The proposed definition should be open for further consultation beyond this consultation to ensure all stakeholders have the time and capacity to carefully consider the legislation, potential ramifications, and unintended consequences before it is introduced.

Recommendation 5: Amend Section 16 (1) and Section 49 to ensure the definition is independently functional under the Act, forming the basis for ground for an ADVO, and as a specific basis for which police can make an application for an ADVO, and further consider redefining "domestic violence offence".

Recommendation 6: DVNSW endorses WLS's recommendation to review of the *Crimes (Domestic and Personal Violence) Act*.

Recommendation 7: In proposed s6A after a contextual definition, consider a single list of examples or some examples and definitions of terms which include examples, for example, a definition of

economic and financial abuse and emotional or psychological abuse. Clearly state the examples are a non-exhaustive list.

Recommendation 8: Amend:

- a. proposed section 6A (2) of the *Crimes (Domestic and Personal Violence) Act* to be more inclusive of other forms of abuse experienced by priority populations including:
 - i. reproductive coercion,
 - ii. immigration abuse,
 - iii. specific abuse within the LGBTQIA+ community such as outing or threats to out or misgender or other identity-based abuse, and
 - iv. systems abuse.
- b. In subsection (h), amend to “preventing the second person from, or forcing the second person to-”
- c. In subsection (h) (i), amend to “making or keeping connections with the person’s or another person’s family, friends or culture, or”
- d. In subsection (h) (iii), amend to “expressing the person’s or any other cultural identity”

Recommendation 9: Amend legislation and policy to stipulate a protection order be made for the person “most in need of protection”.

3. Cultural reform and training

Research consistently finds that the response to coercive control cannot simply be a criminal one (Australian Women Against Violence Alliance 2021; Lombard, Proctor & Whiting, 2022; Victorian Aboriginal Legal Service, 2022). A significant theme found in Lombard, Proctor and Whiting's (2022, p. 25) research was the feeling of being unsafe "due to systemic limitations within the criminal justice system and the unrelenting, long-term danger that the perpetrator posed". It is this understanding that led to Recommendation 1 of the Joint Select Committee's Report that "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 Finding 5, that "systemic, whole of government reforms are needed to effectively implement changes to domestic abuse laws, and adequately support victims" (Joint Select Committee Report into Coercive Control, 2022).

However, the timeframe in which the criminalisation of coercive control is proceeding in NSW does not adhere to these recommendations and findings. For example, the NSW Women's Alliance recently recommended in its [Action to End Gendered Violence](#) that the NSW Government invest in the development of a ten-year workforce development strategy for the specialist sexual, domestic, and family violence sector in NSW due to the lack of specialist workers in the sector. It is not possible to pass a piece of legislation with the confidence that it is going to protect victims from both perpetrators and misidentification without any of the planning, policy, and implementation practices that are going to form its backbone, nor the commencement of the other significant pieces of work that the Joint Select Committee acknowledged must surround criminalisation.

Police training

Throughout the consultation period, the strongest concern raised by DVNSW members and stakeholders was in relation to the training police which will be required to implement the legislative reform and minimise the risk of misidentification of the primary aggressor.

As stated by the Audit Office of New South Wales (2022), NSW Police have been tasked with numerous additional duties over several years for domestic violence matters, and have received very little additional training, resources, or support. This report specifically identified the lack of training provided to NSW Police on domestic violence once they graduate from the academy. DVNSW is of the understanding that two new courses are being introduced by the NSW Police DFV policy team and People and Capability Command: the DFV Fundamentals Course and the Domestic Violence Officers (DVOs) Course, with initial feedback being very positive. However, both courses are currently voluntary, and subject to individual approval from Command management based on staffing levels within the Police Area Command (PAC). DVNSW understands there is an intention for the DFV Fundamentals Course to become mandatory, which would make it the first mandatory DFV training past the probationary year for NSW Police Officers (Audit Office of New South Wales, 2022). However, the NSW Government will be required to provide additional resourcing to the NSW Police to remove barriers to engaging effectively in the training and ensure compliance.

Whilst the above training courses to assist NSW Police Officers in understanding domestic and family violence are a positive step, further training modules, and likely entire courses, will be required to understand coercive control. Coercive control is a complex theoretical concept, and training police on how this is translated into legislation, how to identify the behaviour, what evidence is required, and how

to build a case, must be comprehensive. This training must be face-to-face and must be co-designed and co-delivered with people with lived experience and domestic violence specialists, in line with current best practice. Best practice research points out the necessity of involving “community experts and stakeholders as partners” in order to produce training that “achieve[s] a monumental shift in how the needs of people in crisis are addressed by a modern police service” (Lavoie, Alvarez & Jandil, 2022, p. 588). DVNSW suggests that the NSW police should adopt a recommendation similar to that of the Coronial Inquest into the deaths of Hannah Clarke and her children; that an annual DFV face-to-face module be incorporated into mandatory annual training (Queensland Coroner’s Court, 2022). Given that the Audit Office of New South Wales (2022) estimated that the NSW Police Force spends an average of 50-70% of their time on domestic and family violence matters, (which is only set to increase with the criminalisation of coercive control), a mandatory annual refresher training module must be the minimum standard.

Scottish police were provided with significant training prior to the DASA offence being enacted. Commencing in November 2018, all officers completed a three-part training course, comprised of pre-learning e-modules, face-to-face training co-delivered by police and a domestic violence sector subject matter expert, and post course learning materials (Police Scotland, 2021). Concerningly, despite the significant amount of specialised, face-to-face training with Scottish police, a study by Lombard, Proctor and Whiting (2022, p. 20) found that many women still said the initial contact with police put them off contacting police again.

“The doctor wanted to charge my husband. [...] I refused after the Chief Inspector’s words the night before.”

Women also stated that they felt police were both disrespectful and treated the perpetrator with more respect than themselves. Like many studies before, Lombard, Proctor and Whiting found that the mixture of good and bad experiences with police depended greatly, “on the practice of individual officers, rather than the police force as a whole” (2022 p. 20). This is similar to the findings of the Auditor-General, who found a lack of consistency across NSW Police responses to DFV (Audit Office of New South Wales, 2022), demonstrating the same issue found by Lombard, Proctor and Whiting (2022), with victims receiving inconsistent officer responses. The training of police is not a problem that the NSW Government can relegate to later; it must be considered closely and planned with domestic violence experts *alongside* the drafting of this legislation, with training of the full NSW Police Force completed before the offence is enacted.

Alongside solid drafting, police training will be imperative in avoiding the vast majority of unintended consequences that are of overwhelming concern with the criminalisation of coercive control. NSW Police officers at all levels need to feel comfortable in *not* proceeding with charging in matters that do not reflect the intention of the legislation, even if the situation can be manipulated to fit the technical elements of the legislation. Experts in Scotland state that one of the key elements to avoiding the misidentification of the primary aggressor is avoiding ‘knee-jerk prosecutions’, simply because there have been allegations made. This would require revisiting the current pro-arrest and pro-charge policies (NSW Police Force, 2021) to ensure more consideration is given to when arrest and charge is *not* appropriate, and to provide frontline officers confidence that they do not need to charge someone simply to protect their own jobs.

“It may be argued that the risk of over use is ill-conceived and that simply having the offence on the books is the main aim and by itself (without significant numbers of prosecutions) will help to

positively influence other aspects of the domestic violence response. It is risky however to use the criminal law simply ‘send a message’. If introduced, it should be assumed coercive control would be utilized regularly by police.”

(Douglas, 2021, pp. 11-12).

It is based on the assumption pointed out by Douglas that DVNSW would suggest, as part of the implementation of the criminalisation of coercive control, that it is imperative coercive control charges do not become a KPI or Compass statistic. While DVNSW would advocate for the appropriate utilisation of any domestic violence offence, currently the dangers of misidentification of the primary perpetrator require a cautious approach.

Another finding of the Auditor-General was that current police resourcing is not reflective of current demand, nor population size or demographic (Audit Office of New South Wales, 2022). Rather, the allocation of these resources, including the number of General Duties Officers and specialist officers such as Domestic Violence Officers (DVOs), Multicultural Liaison Officer (MCOs), and Aboriginal Cultural Liaison Officers (ALCOs), are based on outdated data and political promises as opposed to current need. If police are not resourced sufficiently to investigate properly, gather evidence, support and follow up victims, more training is not going to assist. The NSW Government need to ensure appropriate resourcing is provided, in particular for specialist officers, and distributed to meet the Auditor-General’s recommendations.

Actively addressing misidentification of the primary aggressor

The misidentification of the primary perpetrator has been identified across the sector as a significant problem (Barlow et al., 2020; Mansour, 2014; Nancarrow et al., 2020; Royal Commission into Family Violence, 2020). Many first responders – such as the police – find it challenging to identify the primary aggressor. When DVNSW members were surveyed regarding NSW Police responses to domestic and family violence in 2021, concerns were raised extensively on the issue.

On many occasions, women are reporting a domestic violence incident and when the police arrive, if she admits to having hit the other party as in self-defence and trying to get him out of her face... she will be charged and an ADVO be taken out against her... that is because she tells the truth...

DVNSW Member

There is still a lot of work needed in this space, women that are upset or that fight back are still being arrested and charged. Men are believed over women on many occasions and the primary aggressor is not looked at.

DVNSW Member

Case study*

*(*The names and identifying details in this case study have been changed to protect the privacy of the people involved.)*

Sophie and her partner are having a verbal argument with her partner Rob. During the argument, Rob reaches out and puts his hands around Sophie’s neck, strangling her, during which Sophie lashes her

hands out in an attempt to defend herself, leaving scratch marks across Rob's face. Rob strangles Sophie until she is unconscious.

Rob waits for the Sophie to regain consciousness and then proceeds to call police to report *her* assault on *him*. When police arrive on a scene, they advise that they can only work with the information and evidence that is presented before them. This information and evidence available consist of Sophie, a hysterical woman with no visible injuries (as strangulation will often leave minimal or no external bruising (De Boos, 2019)), and Rob, a very calm man who is polite and seemingly reasonable, with injuries to his face. The responding officers also find that Sophie has also been consuming alcohol that night, which she has started consuming more of recently to cope with Rob's escalating abuse. However, Rob advises police that Sophie has alcohol dependence issues and becomes violent when she drinks. From the situation before them, police will take out an ADVO against Sophie and charge her with assault occasioning actual bodily harm, while Rob becomes more certain of his own invincibility.

This case study is an amalgamation of several matters, replicating almost identical circumstances that have been raised by DVNSW members with alarming regularity.

As Bichard et al. (2022) explain, the loss of consciousness during strangulation points to at least a mild traumatic brain injury. When police arrive at the scene of a strangulation, they are not dealing with two parties with the same cognitive function; one is terrified for their life and is likely now suffering from brain damage, whilst the other is in complete control of the situation. These are complex circumstances, and police require in-depth training, aimed at changing cultural attitudes within the force around the incident and process-driven approach to domestic violence, to understand what they are facing. What is clear from this repeated scenario is that police currently do not have the appropriate training, understanding, or resources to be able to identify and charge the primary perpetrator. Often, as found by Nancarrow et al. (2020, p. 80), responding police will, "leave the determination [of the person most in need of protection] to the courts when they were unsure". However, Nancarrow et al. (2020) also found that prosecutors would often defer back to the original police officer's decision, stating they weren't there and so were not best placed to question the officer who was. This creates what Nancarrow et al. (2020, p. 81) term a 'pinball effect', where "the determination of who is the person most in need of protection is pushed off by each decision-maker to the next point of contact in the system".

It is clear that the police do not currently have the skills, systems and supports to accurately identify the primary aggressor, and that misidentification stems back to the incident and process-driven approach to domestic violence. In exploring how we can better address the issue of identifying the primary perpetrator, NSW should consider the findings of the Victorian Royal Commission into Family Violence, and the subsequent work of the Family Violence Reform Implementation Monitor. Specifically, recommendation 41 of the Victorian Royal Commission (2020, p. 38) consisted of two parts. First, that procedures be put in place for amending the Victorian equivalent of WebCOPS, Law Enforcement Assistance Program (LEAP), when a service provider or a Support and Safety Hub subsequently informs Victoria Police that a person is not the primary aggressor. Second, that specialist support services be available to assist in identifying the primary aggressor, with a caveat that, "Victoria Police should provide training at all appropriate levels on the amended requirements relating to identifying primary aggressors".

The Victorian Family Violence Reform Implementation Monitor (2021) make numerous suggestions around the involvement of the specialist family violence sector with police training. This would include

training on signs of trauma and self-defence, perpetrators' manipulative tactics, and the additional fears and barriers faces by Aboriginal women and women from migrant and refugee backgrounds regarding hesitancy to engage with police. DVNSW recommends that further police training be co-developed and co-delivered with lived experts and SDFV experts to incorporate these elements.

A safeguard that Scottish prosecutors clearly articulated was imperative in the implementation of DASA, and an important safeguard against the continuation of the misidentification of the primary perpetrator, is the Joint Protocol between Police Scotland and the Crown Office & Procurator Fiscal Service (Police Scotland and Crown Office & Procurator Fiscal Service, 2019). Prosecutors stated the joint protocol was an important tool in ensuring matters are appropriately investigated and providing policy and practice avenues to rectify where they had not.

The Joint Protocol specifically recognises the risk of the perpetrator making counter allegations under the DASA legislation against the primary victim and provides advice and guidance to officers in determining the identity of the 'principal perpetrator'. Where prosecutors believe the incorrect party has been charged, the joint protocol provides the ability for them to request further investigation be performed by police.

The oversight provided by this Joint Protocol would need to be translated into the NSW context, however, which is likely to see most matters heard summarily in the Local Court, and as such tried by Police Prosecutors. Unlike matters that are tried at District Court level by the Department of Public Prosecutions (DPP), there will be no organisational separation between the investigation and prosecution. Further, due to capacity, it is overwhelmingly common for Police Prosecutors to not be introduced to a matter until the morning of the hearing. This means that any of the issues that are picked up by Scottish prosecutors through the joint protocol will not be picked up and addressed by Police Prosecutors in NSW. At minimum, DVNSW recommend that any coercive control charge be flagged with Police Prosecutors upon police charge, and that this be included in any protocol developed between investigating police and prosecutors.

DVNSW reiterate that an independent implementation taskforce must be formed immediately and oversee the drafting and consultation of this bill. Successful reforms depend on drafting, implementation, and the NSW Government commitment to investing in adequate resourcing for the justice system, and specialist services.

Recommendation 10: Significantly invest in police cultural and system reforms, including,

- a. Regular and ongoing training for all police in how to identify and respond to domestic and family abuse, trauma-informed, culturally safe, disability aware and LGBTIQ+ aware practice that is informed by the lived experiences of victim-survivors and also addresses conscious and unconscious bias. Police training about domestic and family abuse needs to be developed and delivered with significant input from and co-facilitation with sexual, domestic, and family abuse experts, cultural safety experts, disability experts, LGBTIQ+ experts and specialist legal services and should primarily be face-to-face training. Current training must be evaluated for its effectiveness and any future training must also be regularly evaluated for its effectiveness. Evaluation reports must be made public.**
- b. Establish training and guidelines to assist police in accurately identifying the person most in need of protection and the predominant aggressor, including working with**

specialist sexual, domestic and family violence services to assist with accurate identification as recommended in the Family Violence Reform Implementation Monitor report: Monitoring Victoria's family violence reforms Accurate identification of the predominant aggressor (2021).

- c. Increase resourcing for sexual, domestic, and family violence specialisation in the NSW Police Force. Resourcing should also be directed to bringing the date of completion of the Integrated Police Operating System (IPOS) forward. Further details on the need for increased resourcing for the NSW Police Force can be found in the Auditor-General's report into police responses to domestic and family violence.
- d. Fund the state-wide, 24-hour, extension of the NSW police/Women's Domestic Violence Court Advocacy service co-responder pilot, subject to positive evaluation. Increase training and support for police in identifying and responding to vicarious trauma.
- e. Establish information technology systems that enable police easy access to information about history and context of previous violence and abuse.
- f. Develop a joint protocol between charging police and Police prosecutors to ensure and early flagging of coercive control charges with Police Prosecutors and appropriate oversight of matters, with further investigation where appropriate.
- g. Publish the results of regular audits of policing of sexual, domestic, and family abuse and steps police need to take for continuous improvement.
- h. Ensure the NSW police develop clear and transparent policy and procedures to ensure safe reporting and response to allegations of police employees' perpetration of domestic and family abuse and address conflict of interest issues which must include independent oversight of such investigations.

Joint risk assessment and sector and community engagement

An important element of correctly identifying the primary aggressor and addressing risk of harm pro-actively is a shared understanding of family violence through consistent and collaborative practice (Family Violence Reform Implementation Monitor, 2021). In Victoria, this comes in the form of the Multi-Agency Risk Assessment and Management Framework (MARAM) risk assessment and risk management framework, whereas in NSW the current risk assessment being used is the Domestic Violence Safety Assessment Tool (DVSAT) and Safer Pathway. Adopting a multi-agency risk assessment framework is Recommendation number 15 of the Inquiry, due to the importance of shared risk assessment as part of the process of criminalising coercive control in a safe manner.

The DVSAT is undergoing a joint redesign with Legal Aid to improve risk assessment of victims experiencing coercive control, however this review has not yet been completed, changes to the tool have not been made, and training has yet to be implemented to train the sector and police on any changes. DVNSW encourages a robust and effective whole-of-government risk assessment and management framework, that is co-developed across the service sector and police, including comprehensive training for both the service sector and police.

DVNSW agrees with the analysis of the CRAF review (McCulloch et al., 2016), that any risk assessment and management framework needs to do more than identify risk, but must strike a balance between brevity for practical considerations and comprehensiveness to capture all relevant considerations for a holistic response, particularly when different stakeholders place more emphasis on differing concerns.

Risk assessment and management training must be maintained with contemporary evidence, developed by sexual and domestic abuse experts, be culturally safe, disability aware, LGBTIQ+ aware, and ongoing and jointly delivered by relevant agency/ department and sexual and domestic abuse experts (Lavoie, Alvarez, and Kandil, 2022; Usher and Trueman, 2015). The [DVNSW Good Practice Guidelines](#) would be of assistance in guiding this training.

In order to support this ongoing training, as well as ensure the SDFV sector's wider integrated, holistic response, increased funding to the SDFV sector is required. The NSW Women's Alliance recently recommended in its [Action to End Gendered Violence](#) that the NSW Government invest \$20 million to support skill development for up to 1315 new graduates to enter the specialist domestic and family violence workforce, gain employment and develop the skills to work in this specialist field, \$2 million annually to provide additional training and skill development opportunities to the current workforce, \$3.8 million annually to support the Male Family Violence Intervention sector's workforce development, and \$1 million annually to support and equip the sector including specialised training for sexual violence professionals on how to respond to complex trauma, vicarious trauma management and the funding of a community of practice for sexual violence professionals.

Further, in concert with the NSW Women's Alliance recommendation in [Action to End Gendered Violence](#), DVNSW recommends the introduction of a Lived Expertise Advisory Group to the NSW Government, which would represent a number of diverse groups, ages and backgrounds is necessary to provide policy advice. It is important to note here that the Scottish legislation was developed with people with lived experience, ensuring the wording of the law reflected their experiences in a way that law previously had not (Scott and Ritch, 2021), demonstrating further the gap in consultation surrounding the draft exposure bill.

Finally, as per Recommendation 9 of the Joint Select Committee on Coercive Control, that the NSW Government should run community campaigns, raising awareness about coercive control (2021). This has been supported by the NSW Government, however the NSW Government also needs to commit to co-designing and co-delivering these awareness campaigns with sexual, domestic, and family abuse experts including lived experience experts and priority populations.

Recommendation 11: Significantly invest in broader cultural and systems reform including:

- a. Implement a robust and effective whole-of-government risk assessment and management framework for domestic and family violence, including comprehensive training for the service sector and police.**
- b. Proper resourcing of the sexual, domestic, and family abuse sector and adjacent sectors to be able to adequately respond to sexual, domestic, and family abuse and to ensure an integrated, holistic response.**
- c. All workers across all disciplines should meet minimum practice standards in working with victim-survivors and those who use domestic and family abuse. Meeting additional practice standards should be required for those specialising in responding to sexual, domestic, and family abuse. We note [DVNSW Good Practice Guidelines](#).**
- d. Training to support practice standards must be up-to-date, evidence-based, developed by sexual and domestic abuse experts, culturally safe, disability aware, LGBTIQ+ aware and ongoing and jointly delivered by relevant agency/ department and sexual and domestic abuse experts.**

- e. **Introduction of a Lived Expertise Advisory Group to the NSW Government representing a diversity of ages, backgrounds, and life experiences to embed lived expertise policy advice into the work of government.**
- f. **Community awareness campaigns, co-designed and co-delivered with sexual, domestic, and family abuse experts including lived experience experts and priority populations.**

Courts and the legal system

In drafting and planning for implementation of coercive control legislation, sufficient consideration must be given to courts and the wider legal system who will put the draft legislation into practice. The delays of over a year in some courts needs to be attended to first before the additional workload of a new offence is added. Research demonstrates that fast tracked matters have considerable positive impacts, particularly in regard to improving the efficiency of how cases of domestic abuse are managed and run (Synott & Ioannou, 2019). Fast tracking of domestic abuse matters saw a significant increase in guilty pleas and significantly reduced costs.

Due to the unprecedented halt to the progression of court matters that the COVID-19 pandemic caused, local courts continue to see significant delays in obtaining defended hearing dates for ADVO and domestic violence criminal charge offences. For example, as of August 2022, DVNSW members report some courts giving out hearing dates as far away as October 2023. This prolonged wait time causes significant stress and anxiety for the victim in the matter, holding them in a limbo, necessitating reliving of trauma and preventing them from moving on with their lives until the court matter is settled. Bringing in a new criminal offence with drafting that is not supported by experts is only going to compound these delays, increasing stress on victim-survivors while they're used as guinea pigs in the courts.

DVNSW acknowledge Chief Magistrate Judge Peter Johnstone's sentiment that an increase in magistrates on the bench cannot be our only solution to increased demand (Local Court of New South Wales, 2021). Rather, DVNSW strongly supports Judge Johnstone's proposal to establish a fourth tier of the NSW justice system, delegating quasi-judicial matters such as traffic offences and licence appeals to quasi-judicial roles (Local Court of New South Wales, 2021). Relieving magistrates of these primarily administrative matters would allow them capacity to meet the increasing demand for criminal defended hearings. While we agree with Judge Johnstone that this would be of great assistance in clearing the significant backlog of current matters, we also maintain that the backlog should be dealt with before the new offence can operate successfully. We also note the significant increase in workload that this new offence will create for the Women's Domestic Violence Court Advocacy Services (WDVCASs) in particular, especially around assisting misidentified clients.

As recommended by Nancarrow et al. (2021), DVNSW recommend training for magistrates, not just on coercive control and the mechanisms of domestic violence, but on clarifying the circumstances in which orders can be struck out, dismissed or revoked. Further, DVNSW supports Nancarrow et al.'s (2021) recommendation that guidelines and processes need to be developed in relevant bench books and supporting materials to ensure the history of domestic violence is considered in decision making, rather than treating each incident as occurring in a silo. This training needs to be extended to all actors in the criminal justice space, including judicial officers, legal practitioners, court staff, and interpreters. It is imperative that all actors in the system understand domestic and family violence and respond

accordingly. This is of particular relevance for defence lawyers who continue the abuser's behaviour through perpetuating harmful stereotypes in the courtroom during cross examination.

Recommendation 12: Significantly invest in court and wider legal system cultural and system reforms to enable successful legislative reform, including,

- a. Strongly consider Chief Magistrate Judge Johnstone's proposal for a fourth tier of the NSW Justice System to relieve magistrates of primarily administrative matters.
- b. Regular and ongoing training for judicial officers, legal practitioners, court staff and interpreters in how to identify and respond to domestic and family abuse, trauma-informed, culturally safe, disability aware and LGBTIQ+ aware practice that is informed by the lived experiences of victim-survivors and also addresses conscious and unconscious bias. Training about domestic and family abuse needs to be developed and delivered with significant input from and co-facilitation with sexual, domestic, and family abuse experts including lived experience experts, cultural safety experts, disability experts, LGBTIQ+ experts and specialist legal services and should primarily be face-to-face training.
- c. Compulsory training in identifying and responding to domestic and family abuse and identifying and responding to trauma for law students.
- d. Training and support for actors in the legal system in identifying and responding to trauma and vicarious trauma.
- e. Implement ANROWS recommendation for greater role clarity and accountability of police and the courts with safeguards to address misidentification (Nancarrow et al. (2021).

4. Safeguards and accountability

If the draft exposure bill is introduced, despite sector-wide concerns with the current format, DVNSW supports regular and ongoing review of the legislation due to its complexity and believe that this should be built into the legislation more frequently than the current draft review periods. Additionally, DVNSW recommends that research is funded to investigate the impact of the legislation on victim-survivors of coercive control, and that annual reports are made public detailing the operation of the new offence in relation to current legislation.

Annual reports should be made available publicly on the operation of the definition related to ADVOs including the following minimum details:

1. Number of ADVOs applications made.
2. Number of ADVOs made.
3. A breakdown of how many children were named.
4. Length of ADVO.
5. Breakdown of gender, age, background and relationship context of the person most in need of protection and the predominant aggressor, including if they are Aboriginal and/or Torres Strait Islander.
6. Number of reports to police, number of charges laid and what charges, prosecutions commenced, dismissals, early guilty pleas, convictions (and for what offence(s)), findings of not guilty or other outcomes with data included about the gender, age, background of complainants and accused, including if they are Aboriginal and/or Torres Strait Islander, relationship context.
7. Breakdown of gender, age, background and relationship context of the complainant and accused including if they are Aboriginal and/or Torres Strait Islander.
8. Breakdown across police area commands in NSW.

If there is a change to what is captured as a “domestic violence offence”, data on:

1. Number of domestic violence offence charges.
2. Number of domestic violence offence convictions and other outcomes.
3. Breakdown of gender, age, relationship context of the complainant and accused.
4. Other relevant data.
5. The experience of victim-survivors and input from support services.

Recommendation 13: Publish annual reports about the operation of the new definition of domestic and family abuse in the *Crimes (Domestic and Personal Violence) Act 2007*, where domestic and family abuse is a ground for an ADVO.

Upon commencement, annual reports should be published on the operation of the new offence to ensure accountability and transparency and to ensure that systemic improvements can be made. The annual reports should include the following information at a minimum:

1. Number of reports to police.
2. Number of charges laid and what charges.
3. Number of prosecutions commenced.
4. Number of dismissals.

5. Number of early guilty pleas.
6. Convictions (and for what offence(s)), findings of not guilty or other outcomes with a breakdown of gender, age, background and relationship context of the person most in need of protection and the predominant aggressor, including if they are Aboriginal and/or Torres Strait Islander.
7. The length of time between reporting abusive behaviour to police and a final outcome.
8. A breakdown of the length of time between:
 - a. Reporting behaviour to police and charges laid; and
 - b. Charges laid and prosecution commences; and
 - c. Prosecution commences and conviction or another outcome.
9. The number of coercive control offence charges laid
 - a. On their own; and
 - b. In conjunction with other offences and what are these offences.
10. The number of coercive control offence prosecutions undertaken
 - a. On their own; and
 - b. in conjunction with other offence(s) and what are these offence(s).
11. The number of matters where charges for other offence(s) and a coercive control offence were originally laid but
 - a. Only the coercive control offence is prosecuted; and
 - b. Only the other offence(s) is prosecuted; and
 - c. The number of matters where there is a conviction for a coercive control offence in the alternative.
12. Number of coercive control offences prosecuted by police and number of coercive control offences prosecuted by the Department of Public Prosecutions.
13. Breakdown across police area commands in NSW.
14. Independent research about the extent to which the offence is being used and could be used by NSW Police and the Department of Public Prosecutions; this must include information about the extent to which the offence is addressing coercive and controlling behaviours not captured by existing offences
15. The experience of victim-survivors and input from support services.
16. Other relevant data.

Recommendation 14: Publish annual reports about the operation of the new offence.

Recommendation 15: Include a legislative requirement for regular and ongoing statutory reviews following commencement, with the first review no more than 18 months after commencement. Ongoing legislative reviews past the first review must commence every 2 to 3 years after the commencement of the previous review, or earlier if an issue of concern is identified with a report, tabled in each House of Parliament within 12 months of the commencement of each review.

Recommendation 16: Add to the legislation the elements which should be included in the statutory review to ensure a comprehensive review. This includes an assessment of the effectiveness of training as included for the sexual consent reforms and consideration of provisions in Scotland's legislation, such as research with victim-survivors.

Immediate introduction of a coercive control taskforce

Many recommendations from the Joint Select Committee on Coercive Control detail the need for sector engagement, community education and campaigns, and the work needed to be performed in the sector and justice system to ensure a holistic response to coercive control. As this submission explores in detail, it is not appropriate or functional to perform these pieces of work in isolation from each other. Rather, they need to be performed concurrently with the drafting of any bill to ensure that legislation introduced is going to fit within the systems that interact with and administer it, rather than forcing legislation onto an underprepared and under-resourced set of systems.

DVNSW recommends that the taskforce is implemented as a matter of urgency, led by an independent female professional with a legal background and a comprehensive understanding of SDFV to ensure independence. The taskforce should include victim-survivors, representatives of migrant and refugee specialist organisations, Aboriginal and Torres Strait Islander and LGBTIQ+ community representatives, members of the domestic and family violence sector, disability advocates, youth and children representatives, representatives of women who are criminalised, people in the sex-work industry and NSW police. To ensure accountability and transparency, the taskforce should release annual progress reports, as detailed in recommendations 13 and 14 and the section above. The taskforce should operate independently for at least 5-6 years to cover numerous reviews, before being moved to an ongoing government monitoring body.

Recommendation 17: Immediately establish an independent, multi-agency taskforce to oversee the consultation on draft legislation, implementation, and ongoing review of the legislation.

Feedback mechanism

In her presentation at the Coercive Control forum co-hosted by DVNSW and Wirringa Baiya on 20th July 2022, Marsha Scott from Scottish Women's Aid explained that it is imperative to have a regular feedback mechanism on a local level between support services and police. In NSW, this would be best placed in the Women's Domestic Violence Court Advocacy Services (WDVCASs). Currently, the WDVCASs are the only state-wide domestic and family violence specialist service operating at a local level, and the service responsible for guiding women through protection order and criminal charge proceedings in the local court. The WDVCASs also host the Local Coordination Points (LCPs) for female victims within the Safer Pathways Program, due to their state-wide coverage, local knowledge, referral pathways and specialist knowledge (Legal Aid, 2020).

As such, the WDVCASs coordinate Safety Action Meetings (SAMs) under Safer Pathway, currently facilitating local feedback loops between support services and police. DVNSW recommends that, due to the mechanisms and feedback loops already in place, a feedback mechanism designed for the monitoring and evaluation of coercive control would fit appropriately and seamlessly into the current Safer Pathway structure. DVNSW recommends that WDVCAS SAM Coordinators would be best placed to participate in a monthly coercive control meeting with local Crime Managers, DVOs, and prosecutors, directly after the conclusion of every second SAM. These meetings will be aided by the failed prosecutions meetings held between local prosecutors and Crime Managers every month, having data readily accessible. The local feedback mechanisms should report any issues of note back to the centralised independent implementation taskforce for consideration and review.

This suggested feedback mechanism would also be in line with the lessons learned from other jurisdictions. Tasmania Police explained that the difficulty of investigating and prosecuting family violence offences can be due to victim's reluctance or unwillingness to take these matters further (2021). As a result, it is imperative to ensure victims are provided with appropriate services and support, requiring close working relationships between those services and police. Tasmania Police also cite the Integrated Case Coordination (ICC) meetings within their Safe at Home initiative as being key to Tasmania's integrated criminal justice response to family violence (2021). These meetings are very similar to the SAMs, being attended by all service providers in the Safe at Home service system, where all risk and safety aspects of family violence matters are discussed, and appropriate actions decided. Given the ICC's alignment with the current NSW feedback mechanisms of the SAMs, a coercive control feedback mechanism such as the one suggested is a logical extension. It is these elements that are going to determine if the legislation is a success or a failure, and further highlight the importance of immediately establishing an Independent Implementation Taskforce.

Recommendation 18: Develop a regular feedback mechanism for the legislation on a local level between support services, namely Women's Domestic Violence Court Advocacy Services and police.

Recommendation 19: Include a legislative requirement to table a report to Parliament outlining the steps taken towards cultural and systems reform implementation prior to the commencement of a new offence. Include a provision to mandate delay of the commencement date if implementation preparation is insufficient (NSW Women's Alliance, [Action to End Gendered Violence, 2022](#)).

Recommendation 20: A stand-alone coercive control offence does not commence until at least 2 years from the passing of legislation and subject to successful implementation of cultural and systems reform outlined.

Recommendation 21: Commission research to measure outcomes, use, and effectiveness of a contextual definition of domestic and family abuse. This work needs to be commissioned immediately so there are systems in place to collect the necessary data prior to commencement of the criminal offence.

5. Coercive control criminalisation

As the NSW Government is aware, victim-survivors and domestic and family violence experts are strongly opposed to passing coercive control legislation in NSW in 2022. If the NSW Government chooses to proceed – despite the overwhelming opposition - DVNSW recommends that the NSW Government proceed with caution and undertake, at a minimum, a second round of consultation on an amended version of the bill.

Domestic relationships

DVNSW recommends that the legislation be extended to include all types of domestic relationships where coercive control occurs, following additional consultation with experts and representatives from priority population groups and investment in systemic reform. Coercive control within other domestic relationships is just as prevalent and severe as coercive control from intimate partners and is used as a strategy for dominating a victim across a spectrum of relationships, not just intimate partners (Stark & Hester, 2019). Especially in marginalised populations, forms of coercive control are diverse, with these differences often exacerbated by economic inequalities, cultural biases, and institutional barriers (Stark & Hester, 2019).

As noted by Women’s Legal Service (2021) in their submission to the Joint Select Committee on Coercive Control, the application of the new offence should be consistent with the definition of “domestic relationship” under section 5 of the *Crimes (Domestic and Personal Violence) Act 2007*.

5 Meaning of "domestic relationship"

(1) For the purposes of this Act, a person has a

"domestic relationship" with another person if the person--

- (a) is or has been married to the [other person](#), or
- (b) is or has been a [de facto partner](#) of that [other person](#), or
- (c) has or has had an intimate personal relationship with the [other person](#), whether or not the intimate relationship involves or has involved a relationship of a sexual nature, or
- (d) is living or has lived in the same household as the [other person](#), or
- (e) is living or has lived as a long-term resident in the same residential facility as the [other person](#) and at the same time as the [other person](#) (not being a facility that is a correctional centre within the meaning of the [Crimes \(Administration of Sentences\) Act 1999](#) or a detention centre within the meaning of the [Children \(Detention Centres\) Act 1987](#)), or
- (f) has or has had a relationship involving his or her dependence on the ongoing paid or unpaid care of the [other person](#) (subject to [section 5A](#)), or
- (g) is or has been a [relative](#) of the [other person](#), or
- (h) in the case of an Aboriginal person or a Torres Strait Islander, is or has been part of the extended family or kin of the [other person](#) according to the Indigenous kinship system of the person's culture.

Note : "De facto partner" is defined in [section 21C](#) of the [Interpretation Act 1987](#).

(2) Two persons also have a "domestic relationship" with each other for the purposes of this Act if they have both had a [domestic relationship](#) of a kind set out in subsection (1)(a), (b) or (c) with the same person.

Note : A woman's ex-partner and current partner would therefore have a [domestic relationship](#) with each other for the purposes of this Act even if they had never met.

This definition is suitably broad. It would be unacceptable for NSW to implement legislation that leaves behind many victims of crime by only criminalising coercive control in intimate partner relationships. It also sends mixed messages to the community when a behaviour is illegal in one relationship, but acceptable in another.

It is important to note that while Northern Ireland have criminalised coercive control in all relationships where the parties are 'personally connected'. This includes intimate partners, anyone who has lived together, spouses or civil partners, or any other members of the same family (McQuigg, 2021). Such a broad definition in one of the latest examples of international criminalisation of coercive control demonstrates clear evidence that other jurisdictions are learning from neighbouring jurisdictions and adapting their legislation accordingly. DVNSW suggests it would save significant time and resources to broaden this definition now as opposed to broadening the definition later and subsequently requiring investment of additional time and resources, re-training police, the judiciary, and the community.

The importance of including family violence for marginalised communities

First Nations communities are significantly impacted by family violence, with three in five Aboriginal and Torres Strait Islander women experiencing physical or sexual violence perpetrated by a male intimate partner since age 15 (Our Watch, 2018), and with Aboriginal and Torres Strait Islander women being five times more likely to experience physical violence and three times more likely to experience sexual violence than non-Indigenous women (Mouzos and Makkai, 2004). Family violence, referring to violence that occurs in extended family and kinship relationships, also occurs at higher rates in Aboriginal and Torres Strait Islander communities than in the general population (AIHW, 2019). As such, First Nations members have strongly advocated that it is discriminatory and culturally insensitive to only legislate against coercive control between intimate partners. Maintaining a narrow scope in the draft bill will add to the sense of hopelessness of victim-survivors and continue the extensive history of Australian Law failing to protect our First Nations people.

Similar to First Nations communities, violence from extended family members occurs at higher rates in many migrant and refugee communities. Coercive control may be heightened due to complex barriers such as migration stress and the experiences of emotional and social isolation within a new country, which often leads to the dependence on a partner and their families (Singh & Sidhu, 2020). Women from migrant and refugee backgrounds also uniquely experience additional forms of abuse, including dowry and other abuse from their in-laws and other extended family, and multi-perpetrator abuse when residing with multiple family members (Immigration Advice and Rights Centre, 2021; Settlement Services International, 2021). Of significant concern to advocates for women from migrant and refugee backgrounds, is that coercive control will simply be justified as cultural practice, leaving women in significantly more danger than before police intervention (Settlement Services International, 2021).

Elder violence and violence against people with a disability are often hidden forms of violence due to their insidious nature. Victims are often physically vulnerable, whether due to age, disability, or both, and the dependence they have on their carer for daily needs. Elder abuse is most commonly reported as being perpetrated by an adult child on their parent (AIHW, 2019), and can be further complicated by cognitive impairments such as dementia and other disabilities. As the Older Women’s Network (2021, p. 6) states, “Coercive conduct legislation should be expanded to include an application to persons who, because of age, infirmity, mental or physical health are more vulnerable than others in society to being exploited or dominated”. People with a disability can also face unique forms of abuse, such as reproductive control, forced or withheld medical treatment, and forced isolation or restraint (AIHW, 2019), and are 1.8 times as likely to have experienced recent violence from a cohabitating partner than those without a disability (ABS, 2017).

LGBTIQ+ communities can also be subject to coercive control from people beyond their intimate partners, particularly due to their increased likelihood to ‘choose their family’ due to rejection from their biological family (Hill et al., 2021). The forms of abuse unique to LGBTIQ+ communities are primarily based around identity-based abuse, such as ‘outing’ a person’s gender, sexuality, HIV status, occupation as a sex worker and/or illicit drug use or threatening to do so, misgendering, corrective rape, or pressuring the person to conform to gender norms or undergo surgery they do not want (ACON, 2021). People in the LGBTIQ+ community experience higher occurrences of family violence than intimate partner violence (Hill et al, 2021) and have historically been excluded and marginalised in Australian law, only gaining the right to legally marry in Australia in December 2017.

Recommendation 22: Expand the legislation to include all domestic relationships, not only intimate partner violence.

Children and young people

DVNSW holds concerns that the nuances and complexities that arise when children and young people are primary and secondary victims are absent from the drafting of this bill, and that insufficient consultation has been undertaken on this topic. Far too many NSW children and young people experience family violence, including coercive control; at least 65 percent of women who had children in their care when they experienced violence by a partner reported that the children had seen or heard the violence (Australian Bureau of Statistics, 2017). It is integral, then, that children and young people are acknowledged as victims in their own right, rather than only witnesses to the violence experienced by adults. Scottish Ministers were lobbied extensively to ensure that the legislation provided children with co-victim status, with the wording including the adverse impacts of children as an aggravated factor (Scott & Ritch, 2018):

5(3) The offence is so aggravated if a child sees or hears, or is present during, an incident of behaviour that A directs at B as part of the course of behaviour.

5(4) The offence is so aggravated if a reasonable person would consider the course of behaviour, or an incident of A’s behaviour that forms part of the course of behaviour, to be likely to adversely affect a child usually residing with A or B (or both).

DVNSW members have raised concerns that the wording of Section 54F(2)(a) of the currently proposed amendment of the *Crimes Act 1900* could have unintended consequences for protective parents,

particularly in the family law system. Protective parents will often withhold children from an abusive partner due to fears for the child/ren's safety. DVNSW members have expressed concern that the current wording of Section 54F(2)(a) may have the unintended consequences of capturing these protective parents, with abusive partners manipulating the legislation to continue systems abuse on the protective parent. DVNSW recommends this provision be revised to exclude protective parents.

The omission of children as primary victims of coercive control from other family members in this legislation sends a message that coercive control directed towards them is acceptable, that they and their experiences are invisible. The current focus on intimate partner violence only also excludes many parents, women in particular, who are being controlled and coerced by their children.

DVNSW notes that issues may arise from how criminalising coercive control against children would intersect with normal and reasonable parenting behaviours. This would require provisions that excuse normal parenting behaviours, similar to current lawful correction provisions for assault. However, this would require appropriate consultation and thought to ensure avoiding unintended consequences.

DVNSW supports the legislation including only perpetrators 18 and above. DVNSW members are concerned that including offenders of a younger age would see the further criminalisation of young people at a vulnerable age when they need support and education rather than punitive measures. Serious offending in young people often demonstrates the replication of harmful behaviours from parental figures and requires educative intervention to cut the behavioural cycle, rather than automatic punitive action (Young, Greer & Church, 2017). Concerns have also been raised by members that the young people that would be most criminalised are also those who are most vulnerable and over criminalised already under current laws, often being children with histories of trauma in out of home care, residential care, or children with disability or complex needs.

Harmful behaviours of children and young people cannot be ignored, as these young people will become adults and continue this pattern of offending if not disrupted, and their victims should not have their experiences invalidated. Whilst DVNSW does not suggest lowering the age of criminality or otherwise including children and young people in this legislation as perpetrators, we do draw the NSW Government's attention to the need for appropriate alternative pathways, such as diversionary programs that respond specifically to this behaviour to help children and young people understand their behaviour and the effects of this behaviour on others. Some members hold concerns that it is not appropriate to send the message to young people that the behaviours covered by the coercive control legislation are acceptable until they reach 18, particularly leaving underage victims with less recourse than adult victims, but at an age of such vulnerability and development. DVNSW suggests diversionary measures, primary and early intervention initiatives to support these cohorts.

Recommendations 23: Redraft proposed section 54F(2)(a) to clearly exclude protective parents withholding children from contact for safety reasons.

Recommendation 24: Ensure in depth stakeholder engagement on the issue of children and draft coercive control legislation to ensure recommendations create safer outcomes for children.

Recommendation 25: Increase diversionary options and supports for harmful behaviours available for perpetrators of coercive control under the age of 18.

Defences

Section 54E of the proposed legislation provides a defence for the offence of coercive control based on reasonableness. However, domestic violence perpetrators, particularly those skilled in employing coercive control, are very practiced in making their behaviour appear reasonable. While perpetrator behaviour may look reasonable to an outside observer, it can cause significant distress and fear in a victim due a history of abuse, threats, and intimidation.

An example of this was provided by Scottish prosecutors where a victim was involved in a house fire as a child. The perpetrator knew this and would flick his lighter in public to signal to her that he was displeased with her behaviour, and as an implicit threat if she did not change her behaviour, she would be in trouble later. To any 'reasonable person', he may appear to be fidgeting or about to light a cigarette. However, this was a very clear and calculated message for the victim.

It is also for this reason that we recommend adopting an effects approach like Scotland (see recommendation 30c), rather than listing examples of abusive behaviour. A list of abusive behaviours will never be exhaustive but will likely be treated as such in practice by police and in the courts.

DVNSW has significant concerns that the defence of reasonableness will be raised by every perpetrator who is charged with abusive behaviour, flipping the onus back onto the prosecution to disprove the defence beyond reasonable doubt. As such, DVNSW recommends that the defence provision be closely monitored for adverse outcomes, and that there is mandatory education and training of police, prosecutors, and magistrates on this provision.

While there are concerns perpetrators will use this provision to make their abuse seem reasonable, conversely these defences are likely to be critical for victim-survivors who are misidentified. It is for this reason that DVNSW recommends further examples of defences be added to 54E, much like the list of examples on 54F(2)(g). However, it is important to stress that the examples must be carefully considered to ensure they are not encapsulating victims' coping mechanisms. For example, the current example of gambling cited in the DCJ fact sheet could be a coping mechanism for victims of domestic and family violence. Other examples of common coping mechanisms for women are the purchase and consumption of excessive alcohol or illicit drugs. DVNSW recommends engaging with the specialist domestic and family violence sector to ascertain further examples of defences.

Recommendation 26: The independent implementation taskforce considers the practical application of defences and closely monitor defences used for adverse outcomes.

Recommendation 27: Add examples of defences in 54E, much like the examples in 54F (2) (g), focusing on the reasons that acts by victims of domestic violence to attempt increased safety may in practice restrict perpetrators.

Tests

The proposed offence of abusive behaviour towards intimate partners will have two tests: the objective reasonable person test, and the subjective intent/recklessness test. It is noted that these are common legal tests, and reflect the same tests as required to prove the Scottish DASA offence, however DVNSW hold concerns as explored below.

Reasonable person test

The reasonable person test is not disputed by DVNSW and is far preferred over the UK alternative of proving evidence of repeated and ongoing abuse and their ‘serious effect’ (otherwise known as proving injury). However, there have been ongoing and sustained feminist jurisprudence debates around the appropriateness of the reasonable person, who the reasonable person is, and who the reasonable person is not (Graycar and Morgan 1990; Naffine 1987; Nicolson 2000; Tyson, 2012). As stated by Naffine (1987, p. 3), the reasonable man is a ‘legal abstraction’ that represents only the male point of view,

That is to say, the mythical man of law is intended to be ungendered an objective standard of human conduct, and yet the characters used to illustrate the concept are invariably men. And, of course, they are deemed to be ‘reasonable men’. In their search for a perfectly impartial standard of reasonable human behaviour, legal writers have retained in their mind’s eye an image of a man, not a woman. The apparently generic reasonable man becomes unmistakably masculine as images are invoked of commuting civil servants and suburban husbands, ‘in shirt sleeves’, tending their gardens’.

The variance created by gender, ethnicity, social class, and sexuality is not encapsulated by this terminology, with modern legal discourse, communities, and cultures being judged by dated discourses. As Douglas raises, one of the risks associated with this test is that it relies on an understanding of ‘ordinary’ that may not be uniform across all communities, and as such may be enforced in ways that discriminate against minority groups (2021). Similarly, there have been extensive discussions around how the reasonable person does not represent First Nations Australians (Lilienthal & Ahmad 2015).

Further, it is important that magistrates understand that perpetrator behaviour may look reasonable to an outside observer but cause significant distress and fear in a victim due to the history of abuse, threats, and intimidation.

Recommendation 28: Amendments to bench books and training delivered to magistrates must address the concerns of the definition of a reasonable person, as well as how easily a perpetrator of coercive control may be able to manipulate the facts to make themselves look entirely reasonable.

Intent

DVNSW has concerns that the subjective test of intent or recklessness is often cited as the most challenging element of proving the offence of intimidation. However, DVNSW agrees with legal colleagues that the test is appropriate as long as the recklessness element remains untouched. This element is imperative and cannot be removed, as proving specific intent in this offence is an unacceptably high bar.

Retrospectivity

DVNSW notes that the intention, whilst not indicated in the legislation itself, is indicated in the DCJ fact sheet, that the proposed offence will not be retrospective. As per the Guide to Framing Commonwealth Offences (Attorney-General’s Department, 2011, p. 15), ‘an offence should be given retrospective effect only in rare circumstances and with strong justification’. However, if the offence is being treated with the seriousness that the NSW Government is purporting it is, this legislation would reach that threshold. This is of significant concern, as many of the victim-survivors who will come forward to police after this

legislation comes into effect will have been suffering from coercive control for a prolonged period of time.

There is insufficient detail provided as to which elements of the course of conduct would be included or not if, for example, many happened prior to proclamation and one happened after proclamation. To tell a victim-survivor that no action can be taken on any behaviour before this legislation is enacted is not only dismissive of their experiences of abuse, but also de-contextualises the current forms of abuse, which would be heavily relying upon years of reinforced behaviour. DVNSW recommends the NSW Government consult further in regards to making the offence retrospective, and provide additional detail within the legislation as to which elements of the crime would be included in the course of conduct if retrospective abuse is not considered.

Recommendation 29: The NSW Government consult further in regards to making the offence of abusive behaviour retrospective.

Amendments

If despite strong opposition to passing legislation this year the NSW Government proceeds, DVNSW makes the following urgent recommendations.

Recommendation 30:

- a. More closely align the definition of “abusive behaviour” under proposed section 54F of the *Crimes Act* with the definition of “domestic abuse” in proposed section 6A of the *Crimes (Domestic and Personal Violence) Act*, including ensuring it is a contextual definition.
- b. Move the definition of “abusive behaviour” into proposed section 54D of the *Crimes Act* so the definition is understood in the context of the elements of the offence.
- c. Consider adopting an effects approach as Scotland does rather than listing examples of abusive behaviour.
- d. If retaining the list of examples approach, consider moving s54F(2)(g) to s54F(1) as part of a contextual definition.
- e. Specifically name sexual violence as an example of abusive behaviour.
- f. Define “coercion” and “control” and “mental harm” (or use the term “psychological harm” and define this).
- g. In s54D(1)(d)(i) use the term “abusive behaviour” rather than “violence”.
- h. Include wording in the legislation that stand-alone coercive control offence commences upon proclamation at least 4 years after the passing of legislation and subject to taskforce reports noting the successful implementation of cultural and systems reform

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Appendices

Appendix 1



The Hon. Mark Speakman SC MP
Attorney General
52 Martin Place, Sydney, 2000
Cc/ The Hon Minister Ward

22 August 2022

To the Hon. Mark Speakman,

Four points of objection: Urgent request to meet re: Coercive Control Legislation

The NSW Women's Alliance invite you to meet with us this week regarding our concerns with the coercive control draft exposure bill, implementation process and consultation process.

1. Need for a clear definition

The NSW Women's Alliance urgently request to meet as we have substantial concerns about the proposed bill including that the function of the proposed definition of domestic abuse to be included in the *Crimes (Domestic and Personal Violence) Act* is not clear. The definition should be incorporated as a ground for an apprehended violence order and does not appear to do so. We believe that it is confusing to have two different definitions – one in the *Crimes (Domestic and Personal Violence) Act* and another in the *Crimes Act*. It is imperative to start first with a definition of domestic and family abuse in the *Crimes (Domestic and Personal Violence) Act* prior to introducing a stand-alone coercive control offence.

2. Omission of family violence and abuse

The NSW Women's Alliance also hold strong concerns that the proposed new offence only covers intimate partner violence. We believe that it is confusing and concerning for only behaviour by an intimate partner to be criminalised. How can you say this form of abusive behaviour perpetrated by a person against their partner is a crime, but similar behaviour perpetrated, for example, by an adult child against their aged parent, or by an extended family member or kin against another family member (including Indigenous kin relationships), or by a carer against a person with a disability who is dependent on their care, or an adult against a child is not also a crime?

3. Increased time for consultation

We are greatly concerned by the rushed process to criminalise which may have dangerous consequences. We dispute claims which have been made that there has been a substantial consultation period, as the inquiry was not a consultation- it was an Inquiry as to whether or not NSW should criminalise the offence. There has been no intentional inclusion of consultation with victim-survivors who are the very people this legislation aims to protect.

As you are aware, we launched our election platform last week, Action to End Gendered Violence. The Platform makes two important recommendations for a **safe, phased, transparent and accountable approach to the criminalisation of coercive control**.

5.1.a) Prioritise an extensive and proper consultation process with the specialist SDFV sector, leaders and leading organisations representing priority populations and people with lived expertise, following the release of the public consultation draft of the Crimes Legislation Amendment (Coercive Control) Bill 2022 (NSW) prior to further criminalising coercive control. Immediately establish an independent implementation taskforce. A report be required by legislation to be tabled in parliament prior to the new offence commencing outlining all the implementation work undertaken, with the commencement date being delayed if insufficient implementation work is undertaken. Further regular and ongoing statutory reviews following commencement are also required, with the first review no more than 3 years after commencement.

5.1.b) Ensure the criminalisation of coercive control considers the wide range of relationships in which domestic and family abuse may occur.

4. Immediate establishment of an independent implementation taskforce

We call for the NSW Government to immediately establish an independent coercive control implementation taskforce which has oversight of draft legislation and consultation processes, the implementation process prior to commencement, focused on systems and cultural reform as well as training, and ongoing monitoring and evaluation. We call for the tabling of a report to parliament prior to the commencement of a new coercive control offence as outlined above. Once a new offence commences, annual data reports on the operation of the new offence must be published to provide transparency, including about unintended consequences. Evaluations of the experience of victim-survivors must be integral.

We look forward to meeting with you as a matter of urgency.

Yours sincerely,

NSW Women's Alliance.

- [Domestic Violence NSW](#)
- [Women's Legal Service NSW](#)
- [Wurringa Baiya Aboriginal Women's Legal Service](#)
- [Muslim Women Australia](#)
- [Older Women's Network NSW](#)
- [Women's Health NSW](#)
- [Immigrant Women's Speakout Association NSW](#)
- [Full Stop Australia](#)
- [ACON Health Ltd \(LGBTQ+\)](#)
- [No To Violence](#)
- [People with Disability Australia \(NSW\)](#)
- [NSW Council of Social Service \(NCOSS\)](#)
- [Seniors Rights Service](#)
- [Youth Action](#)

Appendix 2



The Hon. Mark Speakman, Attorney General

52 Martin Place, Sydney, 2000

Cc/ Hon Natalie Ward, Minister for Women's Safety and the Prevention of Domestic and Sexual Violence

Hon. Michael Daley, Shadow Attorney General

31 August 2022

To the Hon. Mark Speakman,

Re: Urgent request for draft bill to criminalise coercive control to be opened to a second round of consultation

The NSW Women's Alliance has grave concerns with the Crimes Legislation Amendment (Coercive Control) Bill 2022. These concerns are echoed by the DVNSW Aboriginal & Torres Strait Islander Steering Committee and DVNSW Lived Experience Policy Advisory Committee.

Responding to coercive control is an important reform, however, the draft Bill is complex legislation, and without being given the appropriate time for consideration and consultation it has the potential to harm the very people it was designed to protect.

The NSW Women's Alliance has three key concerns with the proposed legislation which can only be addressed with careful consultation with the domestic and family violence sector and those who have lived expertise, and with a longer consultation period. These include:

1. Need for a clear definition

Coercive control needs to be clearly defined, or it will do very little to improve the safety and wellbeing of victim-survivors in NSW. In the current draft Bill, the proposed definition of domestic abuse is unclear, and "domestic abuse" is not a ground for an apprehended violence order. We believe that it is confusing to have two different definitions – one in the *Crimes (Domestic and Personal Violence) Act* and a different definition in the *Crimes Act*. This will result in perpetrators not being held accountable as there will be loopholes. It is imperative to have a phased approach, starting first with a definition of domestic and family abuse in the *Crimes (Domestic and Personal Violence) Act* prior to introducing a stand-alone coercive control offence. This was a recommendation of the NSW Joint Select Committee on coercive control.

2. Omission of family violence and abuse

The current draft bill limits the criminalisation of coercive control to just intimate partner relationships whereas the current *Crimes (Domestic and Personal Violence) Act* applies a broad definition of "domestic relationship". The omission to include this broader definition in the proposed coercive control legislation will have negative consequences in the law and protection that will be

established in NSW. Under the proposed draft bill, coercive control perpetrated by a person against their intimate partner would be a crime, but the same behaviour perpetrated in other circumstances would not be classified as a crime. For example, coercive control perpetrated by an adult child against their aged parent, or by a carer against a person with a disability who is dependent on their care, or by an extended family member or kin against another family member (including Indigenous kin relationships), would not be covered by the proposed draft bill. In effect this further marginalises priority populations including older people, people with disability, Aboriginal and Torres Strait Islander people and people from migrant and refugee background by denying them the same access to the justice system as those in intimate partner relationships.

3. Immediate establishment of an independent implementation taskforce

We call for the NSW Government to immediately establish an independent coercive control implementation taskforce before the Bill is introduced into Parliament. This taskforce should have oversight of the draft legislation, consultation processes, and the implementation process, including systems and cultural reform as well as training, and ongoing monitoring and evaluation. If the NSW police and justice system aren't sufficiently trained with significant cultural reform undertaken, if our communities don't understand what coercive control is, and if support services aren't funded to provide support to women throughout the process, the proposed legislation will not provide justice for those it has been designed for and who need it most. We must have independent, transparent oversight and evaluation to ensure the legislation leads to appropriate convictions, and that it is not harming victim-survivors.

The NSW Women's Alliance and undersigned supporters ask you to listen to the advice of sexual, domestic, and family abuse experts in the development of this bill. At an absolute minimum we urgently request a second round of consultation on the amended exposure bill.

The changes we need to see in policy and legislation regarding domestic and family violence MUST be informed by those who have lived it. We MUST consider all communities within NSW, including Aboriginal and Torres Strait Islander people. We MUST ensure police, the courts and the legal fraternity are trained appropriately and cultural and systems reforms are implemented, to ensure victim-survivors of coercive control are not re-traumatised. We MUST take the time to criminalise coercive control in order to keep victim-survivors in NSW safe.

The co-signees ask that the above concerns be immediately addressed by the NSW Government before this proposed legislation is passed.

Organisation	Representative
Aboriginal Health Worker	Heidi Bell
Aboriginal Health Worker	Kayla Webb
Aboriginal Maternal and Infant Health Midwife	Janaya Lewis
Aboriginal Maternal Health service, midwife	Olive Hall
ACON	Teddy Cook
Advocate	Daniel John Kofler
Advocate	Kat Docherty
Albury Wodonga Aboriginal Health Service, Community Health/AOD Counsellor	Yvonne Nichol
Animal Defenders Office, Managing Solicitor	Tara Ward
Australian Centre for Disability Law, Principal Solicitor	Mark Patrick
Barnardos Australia, CEO	Deirdre Cheers

Birra-Li Maternal & Child Health Service	Malia Donaldson
Blue Mountains Women's Health & Resource Centre Inc., Manager	Gina Vizza
Bondi Beach Cottage, Specialist DFV Counsellor	Eleanor Campbell
Bonnie Support Services Ltd, Executive Officer	Tracy Phillips
BWDVCAS, DFV Specialist Worker (Multicultural Focus)	Annie Cheng
Carries Place Domestic Violence and Homelessness Services	Jayne Clowes
CASPA Family Supports Casino, Team Leader	Maureen Gill
Central Coast WDV CAS	Karin Whelan
Central Tablelands and Blue Mountains Community Legal Centre	Arlia Fleming
Central West WDV CAS	Penny Watt
Centre for Women's Safety & Wellbeing, Director	Alison Evans
Centre Manager Central West Women's Health Centre Inc	Karen Boyde
CFHN Birra Li Aboriginal Maternal and Child Health Service	Kathryn Linsley
Clarence WDV CAS	Leonie Duroux
Coffs /Clarence, DFV Specialist Worker	Georgie Tebbs
Country Women's Association of NSW, CEO	Danica Leys
Cumberland Women's Domestic Violence Court Advocacy Service, Manager	Oloa Savaiinaea
DFSV Homelssness and Disability Consultant Advocate	Talie Star
Domestic and Family Specialist	Nicolle Woodleigh
Domestic Family Violence Specialist	Karen Vella
Domestic Violence NSW	Elise Phillips
Domestic Violence NSW Service Management	Nicole Diab
Domestic Violence Service Management	Kath Donovan
Domestic Violence Service Management (Wilcannia safe House)	Mary Ronayne
Domestic Violence Service Management, General Manager	Sally Grimsley-Ballard
Domestic Violence Specialist Worker	Kelly Clifton
DV West	Catherine Gander
DVNSW Aboriginal and Torres Strait Islander Women's Steering committee	
DVNSW Lived Expertise Policy Advisory Committee	
Educator/Advocate/Survivor	Ashlee Donohue
Embolden SA, Policy & Communications Manager	Jennifer Kingwell
Enough Is Enough Anti Violence Movement Inc	Simone Marslew
FACAA, President	Adam Washbourne
Faculty of Law, UTS, Associate Professor	Jane Wangmann
Family and friend of victim survivors and 2 deceased victims	Jacy harding
Family Support Barnardos, Program Manager	Melissa Cooke
Family Support Network Inc	Helen Lieschke
Family Support Newcastle	Mark Hoppe
Family Support Newcastle (Family Skills), Group Worker	Danielle Simmonette
Family Support Newcastle (SHLV/Men's Project/Family Skills), Team Leader	Nicole Cameron
Family Support Newcastle, CEO	Sue Hellier
Family Support Newcastle, Family worker	Beth Holmes
Family Support Newcastle, Intensive Family Preservation Social Worker	Louise Davies
Family Support Newcastle, Men's and Family Worker	Roger Currie
Family Support Newcastle, Playtime Facilitator	Jess Johnstone
Family Support Newcastle, Social worker	Jane Grant
Family Violence Prevention Advocate	Rosie Batty

Far West Community Legal Centre, Acting Principal Solicitor	Nina Betts
Full Stop Australia, CEO	Hayley Foster
Got Your Back Sista	Jo Buckingham
Green Valley Liverpool Domestic Violence Service	Sheikha Al Nabhan
Green Valley Liverpool Domestic Violence Service	Jane Ryan
Green Valley Liverpool Domestic Violence Service	Jasmine Shamim
Happiness Habits Inc (free mentoring for vulnerable women)	Penny Newson
Homelessness NSW, CEO	Trina Jones
Housing Plus	Elisabeth Sattler
Housing Plus	Rebecca Bohun
Housing Plus	Penny Dordoy
Housing Plus- WDV CAS	Alissa West
Housing Plus/ WDV CAS	Erin Hunt
Hume Riverina Community Legal Service, Acting Principal Lawyer	Alison Maher
Hunter Community Legal Centre, Managing Solicitor	Bronwyn Ambrogetti
Hunter Valley WDV CAS	Mary Simpson
Hunter Valley WDV CAS	Olivia Stein
Hunter Valley WDV CAS, Domestic Violence Specialist Worker	Audrey Eshiloni
Hunter Valley WDV CAS, SAM coordinator	Christine Lamplough
Hunter Valley, DFV Specialist Worker	Nicole Sheridan
Illawarra Legal Centre	Phillip Dicalfas
Illawarra WDV CAS, DFV Specialist Worker	Janelle Armstrong
Illawarra WDV CAS/ Women Illawarra	Amanda Easter
Illawarra Women's Health Centre, Executive Director	Sally Stevenson AM
Immigrant Women's Speakout of NSW Association, Executive Officer	Sunila Kotwal
Immigration Advice and Rights Centre (IARC)	Joshua Strutt
Inner City Legal Centre	Hilary Kincaid
Intellectual Disability Rights Service, Executive Officer	Janene Cootes
Interrelate	Jessica Alva
Jenny's Place Inc., Executive Manager	Marcia Chapman
Journalist, author and educator	Jess Hill
Kempsey Families Inc.	Paul Reinbott
Kingsford Legal Centre	Emma Golledge
Knowmore Legal Service, CEO	Warren Strange
Leopard Consulting	Vicki Johnston
Liberty Domestic & Family Violence Specialist Services, CEO	Kelly Lamb
Lismore MBC Worker and PVAW worker	Sarah Drury
Lismore Womens Health & Resource Centre	Diane Latta
LIVEfree Project, CEO / Founder	Chris Jones
Macarthur Legal Centre, Executive Officer	Robert Pelletier
Macarthur Womens Domestic Violence Court Advocacy Service-Disability Focused Caseworker	Lisa Stark
Make A Seat Australia, Survivor Advocaet and Founder	Amanda Morgan
Manager Monaro Hume Womens Domestic Violence Court Advocacy Service	Julie Hathaway
Marrickville Legal Centre	Lucy Carroll
Mary's House Services, CEO	Claire Barber
Mid Coast WDV CAS	Sandra Sheridan
Mid Coast WDV CAS, Aboriginal Domestic and Family Violence Specialist	Laura Schmidt
Mid Coast WDV CAS, Domestic & Family Violence Specialist	Danielle Mead

Mid Coast WDV CAS, Domestic & Family Violence Specialist	Kate Fernandes
Mid Coast WDV CAS, Domestic & Family Violence Specialist	Makiita Chilcott
Mid Coast WDV CAS, Domestic & Family Violence Specialist	Kate Moulton
Mid North Coast Legal Centre, Assistant Principal Solicitor	Sarah Dahlenburg
Mid Western - WDV CAS, SAM Coordinator	Jasanna Pilon
Mid Western WDV CAS, Domestic Violence Specialist Worker	Ellen Newton
MLALC, Deputy Chair	Yvonne Weldon
Molonglo Support Services, CEO	Janette Dale
Monash Gender and Family Violence Prevention Centre, Director	Kate Fitz-Gibbon
Mountains Outreach Community Service, Manager	Tatiana Lozano
Moving Forward DFV Case Management Services Inc.	Maria Rodriguez
Multicultural Disability Adovacy Association NSW, Executive Director	Susan Laguna
Murrumbidgee WDV CAS, DFV Specialist Worker	Tayla Haig
National Child Protection Alliance	Pip Rae
National Womens Saftey Alliance	Frances Crimmins
NBMWDV CAS, Manager	Anna Hanson
New England WDV CAS - Aboriginal Focus Worker	Talitha Holzhauser
New England WDV CAS, Manager	Cassandra Cutmore
Newcastle Domestic Violence Committee	Lisa Ronneberg
Newcastle Womens Domestic Violence Court Advocacy Service	Brooke Falcioni
NFSS	Nikola Brookes
Northern Beaches Womens Shelter	Sara Friedman
Northern Rivers DVCAS and Men and Family Centre Lismore	Michelle Lyons
Northern Rivers WDV CAS	Kylie McKenzie
Northern Rivers WDV CAS, Acting Assistant Manager	Em Williams
Northern Rivers Women and Children's Services Incorporated, General Manager	Kelly Banister
Northern Rivers Womens Domestic Violence Court Advocacy Service	Maryanne Collins
Northern Rivers Womens Domestic Violence Court Advocacy Service	Jody Webster
Northern Rivers Womens Domestic Violence Court Advocacy Service	Keira Walker
Northern Settlement Services - Manager - Settlement and Communities Programs	Debbie Carstens
Northern Settlement Services Central Coast	Nellie Srisurapon
Northern Settlement Services, CEO	Sharon Daishe
North-west Sydney WDV CAS, Domestic Family Violence Specialist worker	Clasina Nel
Nova for Women and Children	Belinda Biagioli
Nova for Women and Children	Bobbie Graham
Nova for Women and Children	Danielle Thompson
Nova for Women and Children	Fiona Edwards
Nova for Women and Children	Immogen Rodier
Nova for Women and Children	Katherine Terlato
Nova for women and children	Lee Liewes
Nova for Women and Children	Michelle Apschner
Nova for Women and Children	Wendy Pinch
Nova for Women and Children	Georgia Robson
NOVA for women and children	Tanya Rowney
Nova for Women and Children, case worker	Emma Ginn
Nova for Women and Children, CEO	Kelly Hansen
Nova for Women and Children, Rapid Response Case Worker	Teegan MacDonald

NSS Multicultural Families Team, Manager	Pet Kelly
NSW Council of Social Service, CEO	Joanna Quilty
NWDVCAS, manager	Suellyn Moore
Older Women's Network NSW	Yumi Lee
Oxley WDVCS	Frances Price
Oxley WDVCS, DFV Specialist Worker	Ashley White
Parramatta Women's Shelter, Shelter Manager	Tania Smith
Picking Up the Pieces, Birrang, DFV Program Manager	Keren Barker
Port Stephens Family and Neighbourhood Services, Assistant Manager	Ann Fletcher
Redfern Legal Centre, CEO	Katherine McKernan
Riverina Women's Domestic Violence Court Advocacy Service	Julie Mecham
Riverina Women's Domestic Violence Court Advocacy Service	Veronica Maloney
Riverina Women's Domestic Violence Court Advocacy Service	Melissa Harris
Service Manager TFSS Womens and Children's refuge and Staying Home Leaving Violence	Lynda Townsend
Settlement Services International, CEO	Violet Roumeliotis
Settlement Services International, Program Manager, DFV	Juliana Nkrumah AM
SEWACS, Staying Home Leaving Violence, Bega	Tahnee Austin
Shoalcoast Community Legal Centre	Emma Wood
Shoalhaven Women's Health Centre, Manager	Tracy Lumb
South Coast WDVCS	Sarah Totterdell
South Coast WDVCS	Skye Gunning
South West Sydney Legal Centre	Joshua Mestroni
South West Sydney Legal Centre, CEO	Yvette Vignando
South West Sydney WDVCS, DFV Specialist Worker	Patricia Ho
Southern Cross University, Social Work Field Education Officer	Inga Lie
Staying Home Leaving Violence, Case manager	Julie Dowse
Staying Home Leaving Violence, Case manager	Madeleine Taylor
Staying Home Leaving Violence, Caseworker	Laura Noonan
Staying Home Leaving Violence, Referral & Intake worker	Sophie Harley
Supported Accommodation & Homelessness Services Shoalhaven/Illawarra (SAHSSI)	Kathy Colyer
Survivors & Mates Support Network (SAMSN), MD/CEO	Craig Hughes-Cashmore
Sydney WDVCS, Acting SAM Coordinator	Kathy Drane
Sydney WDVCS, DFV Specialist worker	Ally Payne
Sydney WDVCS, DFV Specialist worker	Jessica Pleitez
Sydney Women's Counselling Centre, Assistant Manager	Sonya Finlayson
SydWest Multicultural Services	Elfa Moraitakis
Tenants' Union of NSW	Leo Patterson Ross
The Northern Centre, CEO	Cate Sinclair
The Salvation Army Trafficking and Slavery Safe House, Program Manager	Claudia Cummins
The Women's Cottage, manager	Maria Losurdo
Thiyama-li FVSIC Moree, Acting CEO	Denise Ranby
Trans Queer Brains Trust (TQBT), Founder	Sparrow Katekar
Tumut Regional Family Services Inc.	Karen Tobin
University of Arizona and Fulbright Scholar, UTS, Clinical Law Professor	Negar Katirai
University of Newcastle Legal Centre, Acting Director	Sarah Breusch
Victim survivor	Angela Brown
Victims of Crime Assistance League (Hunter), CEO	Kerrie Thompson

WDVCAS, Domestic family violence Specialist	Sarah Bills
Weave Youth & Community Services, CEO	Siobhan Bryson
WESNET, Chair	Julie Oberin
Western NSW Community Legal Centre, Principal Solicitor	Patrick O'Callaghan
Western Sydney Community Legal Centre, Interim CEO	Helen Bouropoulos
Western Sydney Community Legal Centre, Acting Principal Solicitor	Susannah Coles
Western Sydney University Justice Clinic, Executive Officer	Rebecca Dominguez
Western Women's Domestic Violence Court Advocacy Service	Wanita Gibbs
Western Women's Domestic Violence Court Advocacy Service	Tearne Ryan
Western Womens Legal Support, Principal Solicitor	Rachael Robertson
Wirringa Baiya Women's Legal Service, CEO	Christine Robinson
Women Illawarra, General Manager	Michelle Glasgow
Women Up North Housing	Brooke Cotten
Women With Disabilities Australia	Heidi La Paglia Reid
Women's and Girls' Emergency Centre	Helen Silvia
Women's Community Shelters, CEO, Chair - DVNSW Board	Annabelle Daniel OAM
Women's Health NSW, CEO	Denele Crozier, AM
Women's Legal Service NSW, Executive Officer	Helen Campbell OAM
Women's Service Manager SHS Uniting	Jasmine Aspinall
Yes Unlimited	Di Glover
Yes Unlimited Albury	Kira Pace
Yfoundations, CEO	Trish Connolly
Youth Action	Kate Munro
Youth Law Australia, Principal Solicitor (Harm Practice)	Carolyn Jones
Zonta Club of Central Coast	Gael Butler