Redfern Legal Centre

Submission to: The Statutory Review of the NSW Coercive Control Law (*Part 3, Division 6A of the Crimes Act 1900*)

Redfern Legal Centre's Financial Abuse Service NSW

28 August 2026

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Mr Michael Tidball
Secretary
NSW Department of Communities and Justice
Locked Bag 5000
PARRAMATTA NSW 2124

By website upload: https://www.haveyoursay.nsw.gov.au/coercive-control-review
And by email: policy@dcj.nsw.gov.au

Dear Mr Tidball,

Statutory Review of the NSW Coercive Control Law

Thank you for the opportunity to provide a submission to the statutory review of *Part 3, Division 6A of the Crimes Act 1900*.

This submission is made by Redfern Legal Centre's Financial Abuse Service NSW. It focuses on the operation of the coercive control offence and the statutory definition of domestic abuse as they relate to financial and economic abuse, non-physical forms of domestic abuse, police responses, and the practical impacts on victim-survivors.

We would welcome the opportunity to discuss this submission further.

Yours sincerely

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About Redfern Legal Centre

Redfern Legal Centre is a non-profit community legal centre that provides access to justice. Established in 1977, RLC was the first community legal centre in NSW and the second in Australia. We provide free legal advice, legal services and education to people experiencing disadvantage in our local area and statewide.

We work to create positive change through policy and law reform work to address inequalities in the legal system, policies and social practices that cause disadvantage.

We provide effective and integrated free legal services that are client-focused, collaborative, non-discriminatory and responsive to changing community needs - to our local community as well as state-wide. Our specialist legal services focus on tenancy, credit, debt and consumer law, financial abuse, employment law, international students, First Nations justice, police accountability, and we provide outreach services including through our health justice partnership.

About the Financial Abuse Service NSW

Since 2019, RLC's specialist state-wide Financial Abuse Service NSW has provided legal advice and representation to clients affected by financial abuse from an intimate partner in NSW. This is the only service of its kind in Australia.

We provide free confidential legal advice, including co-advice appointments with specialist family lawyers advising alongside credit, debt and consumer lawyers, as well as representation in eligible cases. In addition to providing legal support for victim survivors of financial abuse, the service provides financial counselling, social work, community legal education and engages in capacity building and reform work to drive systemic change and prevent financial abuse.

FAS also co-ordinates the National Economic Abuse Reference Group (**EARG**) and the NSW Economic Abuse Reference Group. The EARG is an informal group of over 70 community organisations across Australia that work collectively with government and industry to reduce the financial impact of family violence. Members include DFV services, community legal services and financial counselling services.

Our work gives us particular insight into forms of domestic abuse which may not present as physical violence but can leave victim-survivors with significant debt, damaged credit, loss of employment or income, reduced access to housing and prolonged financial insecurity.

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Acknowledgement of Country

We acknowledge that Redfern Legal Centre is located on the land of the Gadigal people of the Eora Nation and that sovereignty was never ceded. We pay our respects to Elders past and present, and to all the First Nations people, organisations and communities that we work in solidarity with. Always was, always will be.

Scope of this submission

This submission is primarily informed by the experience of Redfern Legal Centre's Financial Abuse Service NSW (**FAS**) assisting victim-survivors of financial and economic abuse, with input from other practice areas within Redfern Legal Centre (**RLC**).

This submission responds to the statutory review (**the statutory review**) of coercive control reform (**the reform**) enacted through *Part 3, Division 6A of the Crimes Act 1900* by reference to the three categories identified in the Discussion Paper:

- operationalisation of the reform;
- elements of the legislation; and
- training, education and awareness.

Our submission responds to the consultation questions through those three areas, with particular focus on three key issues:

- NSW Police systems, culture and practice need to improve so police can identify and respond to coercive control appropriately.
- Economic and financial abuse should be clearly defined, with broader non-exhaustive examples provided.
- The offence should be extended to domestic relationships, and the mental element should cover recklessness, but only once improvements to implementation have occurred.

There is an important tension in considering legislative expansion at this stage of the reform.

We reiterate the recommendations we made during consultation on development of the legislation, including supporting recklessness as part of the mental element and recognising coercive control beyond intimate partner relationships. Importantly, we also noted that legislative change alone could not deliver meaningful change without corresponding systems and cultural reform.

This submission is also informed by our current casework, which raises serious concerns about whether the existing offence is being implemented appropriately. Our primary concern is therefore that legislative change should not distract from the significant work still required to improve police practice, culture and the broader system response.

We do not respond to every consultation question. We do not make substantive submissions on penalties, given the minimal data we have in relation to convictions. Nor do we make detailed submissions on the impacts of the offence

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on First Nations people, CALD communities or LGBTQIA+ people, though we do maintain our concerns around misidentification being more likely to impact these communities, as raised in our previous submissions[1]. We defer to specialist community services that are better placed to respond on those particular impacts of the offence.

Our previous submissions on the introduction of coercive control laws in NSW

- EARG NSW, August 2022, input into the exposure draft Crimes Legislation Amendment (Coercive Control) Bill 2022[2] (**EARG Bill Submission**)
- RLC, August 2022, input into the exposure draft Crimes Legislation Amendment (Coercive Control) Bill 2022[3] (**RLC Bill Submission**)
- EARG NSW, February 2021, input to the Joint Select Committee on Coercive Control's inquiry into coercive control in domestic relationships[4] (**EARG Committee Submission**)

Throughout this paper we refer to these as 'our' previous submissions or as 'we' submitted.

[1] Economic Abuse Reference Group NSW, Submission to NSW Department of Communities and Justice, *Submission on NSW Coercive Control Draft Bill* (30 August 2022) at 9 ('*EARG Bill Submission*') <https://earg.org.au/our-publications/submission-on-nsw-coercive-control-draft-bill-august-2022/>; Redfern Legal Centre, Submission to NSW Department of Communities and Justice, *Submission on Draft Coercive Control Bill* (30 August 2022) at 13 ('*RLC Bill Submission*') <https://rlc.org.au/sites/default/files/2022-10/RLC%20submission%20on%20Draft%20Coercive%20Control%20Bill%2030%20August%202022.pdf>

[2] *EARG Bill Submission* (n1)

[3] *RLC Bill Submission* (n1)

[4] Economic Abuse Reference Group NSW, Submission to the Joint Select Committee on Coercive Control, *Inquiry into Coercive Control in Domestic Relationships* (22 February 2021) ('*EARG Committee Submission*') <https://rlc.org.au/sites/default/files/attachments/EARG%20NSW%20Coervice%20Control%20Submission%2022%20Feb%202021.pdf>

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Executive Summary

We support the objectives of the NSW coercive control reform and consider the legislative recognition of coercive control to be important. However, our casework with victim-survivors of domestic violence since commencement of the legislation reinforces a concern we raised throughout the development of the legislation: criminalisation alone will not produce better outcomes for victim-survivors.

Economic and financial abuse is a serious form of coercive control. It can cause long-term debt, damaged credit, loss of income, housing instability and reduced capacity to leave or recover from abuse. The NSW data provided in the Discussion Paper[5] reinforces that financial abuse is not marginal: financial abuse was recorded in 52% of coercive control incidents, alongside harassment, monitoring or tracking (56%), threats or intimidation (53%), and shaming, degrading or humiliating behaviour (46%). These behaviours are often the mechanisms used to coerce victim-survivors to hand over income, take out debt, surrender control of accounts or remain financially dependent. The review should therefore focus not only on whether the offence exists, but whether police and the justice system are identifying financial and economic abuse as part of a course of coercive control.

There remain legislative issues that should be addressed. We continue to support extending the mental element to include recklessness in relation to coercion or control and broader recognition of coercive control across domestic relationships, in principle. However, we do not consider expansion of the criminal offence on both these fronts is appropriate until there is stronger evidence that the existing offence is being implemented safely and effectively. We also continue to call for a clear definition and broader recognition of financial and economic abuse.

More fundamentally, the success of the reform depends on changing culture, systems and practice. Police and the wider justice system must be able to identify a pattern of coercive control rather than focusing principally on the immediate incident. They must recognise financial and other non-physical abuse as serious forms of domestic abuse, investigate them appropriately and understand their significance even where a physical offence is also available.

The experience in England and Wales demonstrates the scale of that task. Barlow and Walklate's 2025 research[6], which examines ten years of implementation of the coercive and controlling behaviour offence, identifies persistent challenges with police recognising coercive control as a pattern of behaviour, evidencing the offence, communication with victim-survivors and moving away from incident-based policing. Their conclusion that criminalisation is not a "quick fix" is directly relevant to this review. Similar lessons have emerged from Scotland,

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[5] New South Wales Government, *Review of Part 3, Division 6A of the Crimes Act 1900 (Abusive Behaviour towards Intimate Partners): Discussion Paper for the Statutory Review of Coercive Control Reform* (Discussion Paper, July 2026).

[6] Barlow, C. and Walklate, S., 'Learning Lessons from the Criminalisation of Coercive and Controlling Behaviour Ten Years On: The Implementation Journey in England and Wales' (2025) 14(4), *International Journal for Crime, Justice and Social Democracy,* 145 <https://www.crimejusticejournal.com/article/view/3700/1556>

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where post-legislative reviews have emphasised the importance of ongoing training, evidence gathering, supervision and systems reform to support implementation of the *Domestic Abuse (Scotland) Act 2018*.

That is consistent with our 2022 submissions. The problems identified then have been observed in our casework today. This review provides an important opportunity to address them.

The central issue for this review should not be the number of people who have undertaken coercive control training or simply whether the number of recorded matters and charges is increasing. The more important question is whether police and the justice system are becoming better at recognising, investigating and responding to coercive control. Our casework indicates that significant implementation gaps remain, particularly where the abuse is financial or otherwise non-physical.

Case Study: Jane's experience with the Police

Jane* met Simon* in 2022. Simon immediately started "love bombing" Jane, telling her he never felt this way before. On their second date, he gave her a key to his house and passwords to his phone.

He never let Jane and her children have time together without him. If Jane saw her friends, he would aggressively ask when she returned from catching up *"did you tell them about me? Did you tell them you met the love of your life?"*

Simon would act jealous, worried that Jane was hitting on other men. He would pressure Jane to help him out financially. She invested about $20,000 in crypto with him. He said he would pay her back, but he never did. Jane ended up getting lawyers involved, but only $5000 was returned as part of a settlement deal. Simon drove a wedge between Jane and her children, making Jane feel isolated.

Simon would constantly call Jane late at night and would get upset if she didn't respond to texts or calls straightaway. He would yell at her and demean her frequently. Jane was also a victim of sexual assault, perpetrated by Simon, multiple times in their relationship.

Jane ended the relationship with Simon and reported the sexual assault and coercive control to police not long after that. She made a detailed statement.

Jane stated that the police "*never really seemed interested in the coercive control. They weren't gonna go down that path.*"

After a year and a half of investigation by police, they explained to Jane that they were not going to charge Simon with anything, due to lack of evidence.

In Jane's words: *"[The policewoman] said she hoped that I wasn't too disappointed. I told her that I wasn't shocked at all and that I knew that this was going to happen from the very beginning. The detective said that she hoped that I would still contact Police if I needed them in the future, and I told her that I definitely would never contact Police. I don't trust them."*

**Names have been changed (AS 223581)*

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Recommendations

1. NSW Police should strengthen guidance, supervision and practice support to ensure officers identify coercive control as a course of conduct, rather than treating it as a series of isolated incidents.
2. NSW Government should strengthen monitoring and evaluation of the coercive control offence to better understand how it is being identified, investigated and charged in practice. This should include cases where another domestic violence offence is recorded or charged.
3. Implementation of the coercive control offence should include sustained investment in specialist, interdisciplinary services that can support victim-survivors experiencing financial and economic abuse.
4. Access to the Victim Support Scheme should be expanded to victims of coercive control, including where the abuse is predominantly non-physical.
5. The review should give significant weight to evidence and responses from specialist community services working with First Nations people, CALD communities and LGBTQIA+ communities.
6. NSW Police should be provided with clearer guidance for identifying and responding to financial and economic abuse as coercive control, including where there is no recent physical violence or accompanying physical offence.
7. Amend section 54D(1)(c) to extend the offence to circumstances where the person intends to coerce or control the other person or is reckless as to whether the course of conduct will coerce or control them. This amendment should not commence until appropriate police training, guidance and implementation safeguards are in place.
8. Extend the offence to domestic relationships as defined in section 5 of the *Crimes (Domestic and Personal Violence) Act 2007* in principle, but do not commence any expansion until there is stronger evidence that the current offence is being implemented safely and effectively.
9. Amend the *Crimes Act* and *Crimes (Domestic and Personal Violence) Act 2007* to include a definition of economic and financial abuse, supported by a broader, non-exhaustive list of examples.
10. Expand the non-exhaustive list of examples in the *Crimes Act* and *Crimes (Domestic and Personal Violence) Act 2007* to expressly recognise common forms of economic and financial abuse.
11. The review should assess the effectiveness of coercive control training by reference to changes in police practice, including whether officers are identifying courses of conduct, recognising financial and economic abuse, identifying the correct primary perpetrator, gathering appropriate evidence and responding appropriately where there is no recent physical violence.

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Responses to the consultation

OPERATIONALISATION OF THE REFORM

In our previous submissions, we raised concerns about longstanding difficulties in police recognition of financial and other forms of non-physical domestic abuse[7]. We reiterate those concerns based on our casework.

Police understanding of the offence

The success of the coercive control offence depends on police being able to identify a course of conduct. This requires more than recognising a single incident. It requires police to ask about the broader relationship, understand patterns of behaviour, and identify how apparently separate acts may operate together to control a victim-survivor.

Financial abuse is a clear example. Monitoring, threats, intimidation and humiliation are commonly used to coerce victim-survivors into taking out loans, handing over income, transferring assets, assuming responsibility for debts, and remaining financially dependent on the perpetrator. If police treat these matters only as civil, family law, credit and debt, or fraud issues, the coercive control context is missed. The availability of other avenues for addressing the conduct should not, of itself, prevent police from considering whether the same conduct also forms part of a pattern of coercive control. Multiple responses may be appropriate at the same time, depending on the circumstances.

Barlow and Walklate's research is relevant because it demonstrates that these implementation issues can persist even after significant time has passed. Their research identifies ongoing difficulties in police understanding of coercive control, particularly the move from incident-based policing to recognising patterns of behaviour. The lesson for NSW is that implementation needs sustained attention.

Recommendation 1: NSW Police should strengthen guidance, supervision and practice support to ensure officers identify coercive control as a course of conduct, rather than treating it as a series of isolated incidents.

Data and how the offence is operating

The Discussion Paper describes the uptake of the coercive control offence as slow. NSW Police recorded 473 coercive control incidents in the first 18 months of the offence. As at 17 June 2026, 41 charges had proceeded and only four (4) matters had proceeded to sentencing. Further, 59% of recorded coercive control incidents were accompanied by another offence type, most commonly intimidation or stalking, domestic assault or malicious damage.

The available data is still framed around recorded incidents or events. That is understandable for administrative reporting, but it also highlights the implementation challenge: police and justice responses must be able to look beyond an immediate event and identify a course of conduct.

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[7] *EARG Committee Submission* (n3) 4; *RLC Bill Submission* (n1) 6; *EARG Bill Submission* (n1) 12.

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The NSW data is particularly significant because it demonstrates that financial abuse is not a peripheral feature of coercive control. On average, each coercive control incident involved four distinct controlling behaviours. The most frequently recorded controlling behaviours were harassment, monitoring or tracking (56%), threats or intimidation (53%), financial abuse (52%), and shaming, degrading or humiliating behaviour (46%). This reinforces the need for police training, investigative guidance and supervision to treat economic and financial abuse as a core coercive control behaviour rather than as a separate financial, civil or family law issue.

The data does not establish why particular charging decisions were made. It does, however, warrant closer examination of whether non-physical coercive control is being recognised and investigated in its own right. There is an understandable practical tension. Coercive control matters can require lengthy and resource-intensive investigation, while offences involving physical violence may be more easily identifiable and faster to investigate and prosecute.

The median period between a recorded coercive control event and charge was 188 days as of December 2025. That delay has obvious implications for victim-survivor safety, confidence and engagement. It also reinforces the need for clear communication, safety planning and specialist support while matters are investigated.

BOCSAR's *NSW Trends in Domestic and Family Violence: Quarterly Report-Data to March 2026*[8] recorded 38,314 incidents of DV assault in the 12 months to March 2026, compared with 347 recorded incidents of coercive control over the same period. This disparity is striking and relevant. It reinforces the need for qualitative review of whether coercive control is being identified where police respond through more familiar domestic violence offences.

The coercive control context should not be lost simply because another offence is easier to record, investigate or prosecute. Financial and economic abuse can be an early feature of coercive control and may occur before physical violence or other forms of coercive control are visible. This makes effective identification particularly important. A police response that focuses primarily on visible physical violence risks missing both the course of conduct and opportunities for earlier intervention.

At the very least, a coercive control lens should inform how police, prosecutors and courts understand and respond to domestic violence offences, even where a separate coercive control charge is not ultimately pursued. This is particularly important in cases involving financial and other forms of non-physical abuse.

The available data is not yet sufficient to determine whether coercive control is being identified and responded to consistently in practice. Improved monitoring should include qualitative review of police reports, domestic violence events, ADVO matters and related offences to better understand whether coercive control indicators are being identified where another offence is recorded or charged.

[8] NSW Bureau of Crime Statistics and Research, '*NSW Trends in Domestic and Family Violence: Quarterly Report, Data to March 2026* (Quarterly Report, 2026) <https://bocsar.nsw.gov.au/documents/topic-areas/domestic-violence/NSW_Trends_in_Domestic_and_Family_violence_%E2%80%93_Quarterly_report.pdf>

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Recommendation 2: NSW Government should strengthen monitoring and evaluation of the coercive control offence to better understand how it is being identified, investigated and charged in practice. This should include cases where another domestic violence offence is recorded or charged.

Case Study: Poor communication and follow-up by Police

Bella* was married to her partner and they had a young child together. After escalating physical violence, Bella made the decision to flee with their child and seek assistance from police.

Police sought and were granted an ADVO for Bella's child, but they did not request an ADVO for Bella. Bella was told by police that they were going to pursue further investigation against her now former partner for coercive control towards her, and this meant that they would not seek an ADVO for Bella's protection in the meantime.

Bella did not understand why this is the case. While Bella is partially protected under her child's ADVO, Bella goes to work and runs errands without her child and is worried for her safety during these periods apart. Police have not kept Bella informed about where their investigation is up and two months on she is still without an ADVO.

This case highlights the importance of police not substituting coercive control investigations for immediate ADVO protections which give victim-survivors a sense of safety and security and maintaining proper communication with victim-survivors to ensure they understand the actions police are taking and why.

**Name has been changed (AS 224323)*

Systems and cultural reform remain essential

In 2020, the Joint Select Committee on Coercive Control[9] recommended not only legislative reform but public education, funding of frontline services, improvements to policing, education and training, and oversight of domestic abuse laws and services. We reiterated those recommendations in our previous submissions[10].

There remains significant work to be done with respect to public education, funding of frontline services, improvements to policing, education and training and oversight.

Recognition of economic and financial abuse will not be enough if victim-survivors cannot access specialist support to resolve the legal, financial and practical consequences of that abuse. Victim-survivors need trauma-informed, interdisciplinary assistance, including legal assistance, financial counselling, social work, safety planning and support to navigate financial, legal and government systems. Specialist financial abuse services, such as that

[9] New South Wales Government, *NSW Government Response to the Joint Select Committee on Coercive Control* (17 December 2021) <https://www.parliament.nsw.gov.au/parliamentary-business/tabled-papers-details?id=81416>

[10] *EARG Committee Submission* (n3) 7; *RLC Bill Submission* (n1) 14; *EARG Bill Submission* (n1) 6-9.

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provided by FAS, should therefore be treated as core implementation infrastructure, not an optional service response.

NSW law now expressly recognises economic and financial abuse as domestic abuse and as conduct capable of forming part of the coercive control offence, yet this recognition is not consistently reflected across related victims support and recovery systems. Victims support payments remain structured around categories such as homicide, robbery involving violence and physical assault. As a result, economic and financial abuse, and other non-physical forms of coercive control, may be relevant when accompanying physical violence but may not be recognised on their own for financial redress. This limits the practical effect of the reform for victim-survivors experiencing predominantly non-physical abuse.

Recommendation 3: Implementation of the coercive control offence should include sustained investment in specialist, interdisciplinary services that can support victim-survivors experiencing financial and economic abuse.

Recommendation 4: Access to the Victim Support Scheme should be expanded to victims of coercive control, including where the abuse is predominantly non-physical.

Lessons from Scotland

International experience demonstrates that criminalisation alone is insufficient to improve responses to coercive control.

Scotland's experience following the introduction of the *Domestic Abuse (Scotland) Act 2018* provides a useful point of comparison for NSW. The Scottish Government's 2026 reporting requirement[11] notes that early implementation data should not be treated as indicative of long-term trends. The report highlights that offences based on a course of conduct take time to be identified, investigated and progress through the justice system, and that early implementation was affected by the COVID-19 pandemic.

Research by Burman, Brooks-Hay and Friskney[12] examining police implementation of the Scottish offence similarly identified both opportunities and challenges. Their research found that the offence created opportunities for a broader understanding of domestic abuse, while also highlighting complexities in interpretation, evidence gathering and implementation. Importantly, they question the extent to which meaningful changes in police practice can be achieved through legislation alone.

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[11] Scottish Government, *Domestic Abuse (Scotland) Act 2018: Final Reporting Requirement* (24 February 2026), https://www.gov.scot/publications/domestic-abuse-scotland-act-2018-final-reporting-requirement/

[12] Michele Burman, Oona Brooks-Hay, O. and Ruth Friskney, 'Operationalizing Coercive Control: Early Insights on the Policing of the Domestic Abuse (Scotland) Act 2018' in Heather Douglas, Kate Fitz-Gibbon, Leigh Goodmark and Sandra Walklate (eds), *The Criminalization of Violence Against Women: Comparative Perspectives* (Oxford University Press, 2023) 189 <https://doi.org/10.1093/oso/9780197651841.003.0011>

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Scotland's experience also demonstrates the importance of implementation infrastructure. A 2023 thematic review by Her Majesty's Inspectorate of Constabulary in Scotland[13] identified the need for ongoing professional development, trauma-informed practice, improved collection of digital and third-party evidence, clear investigative ownership, effective communication with victim-survivors and workforce planning to support complex domestic abuse investigations.

The lesson for NSW is clear. Legislative reform must be accompanied by sustained investment in implementation, training, supervision, specialist expertise, accountability mechanisms and frontline services. Criminalisation should not be treated as the completion of reform, but as one component of a broader systems response.

ELEMENTS OF THE LEGISLATION

Question 1: At this point in the reform, are the policy objectives of the reform still valid?

Yes. The policy objectives remain valid. However, there is a significant difference between the validity of the objectives and the effectiveness of the implementation to date.

In our casework, victim-survivors continue to report difficulty having financial and economic abuse recognised by police as domestic abuse or coercive control. Financial abuse continues to be treated as a "civil matter", a "family law matter", or a "credit and debt issue" when reported to the NSW Police, rather than as a form of domestic abuse or coercive control.

The review should assess whether the offence is improving police and justice system responses to coercive control as a course of conduct, including where the abuse is financial, economic or otherwise non-physical.

This reinforces our view that criminalisation must be accompanied by sustained cultural change, practical guidance, supervision, resourcing, specialist support and accountability mechanisms.

Question 2: Are there any adverse impacts from the criminalisation of coercive control on First Nations people, CALD communities and LGBTQIA+ people which have not been identified by the current monitoring mechanisms?

We do not have significant breadth of casework experience with First Nations people, culturally and linguistically diverse (CALD) communities or LGBTQIA+ communities seeking to report coercive control offences to comment in depth. We defer to specialist organisations representing and working closely with those communities.

We note, however, the limitations in existing administrative data identified by the Discussion Paper. For example, BOCSAR is unable to identify ethnicity other than Aboriginality and uses recorded interpreter or translator use as a proxy for CALD communities. This will clearly not reflect all reports made by members of CALD communities. These

[13] Her Majesty's Inspectorate of Constabulary in Scotland, *Thematic Review of Domestic Abuse – Phase 1* (12 January 2023) <https://www.hmics.scot/publications/hmics-thematic-review-of-domestic-abuse-phase-1/>

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limitations reinforce the importance of qualitative evidence and continued direct engagement with specialist organisations and affected communities.

Given the limitations in existing administrative data and the low charging rates of the offence to date, it is difficult to determine the realistic adverse impacts flowing from the criminalisation of coercive control on First Nations people, CALD communities and LGBTQI+ people.

The Aboriginal Legal Service noted in its 2022 submission the disproportionate number of First Nations women in custody in NSW, and that the increase is also disproportionately driven by domestic and family violence charges against women.[14]

Across Redfern Legal Centre practice areas, and we understand across the community legal sector in NSW, we are seeing an increase in the misidentification of victim-survivors as perpetrators, with First Nations women disproportionately misidentified.

Recommendation 5: The review should give significant weight to evidence and responses from specialist community services working with First Nations people, CALD communities and LGBTQIA+ communities.

Question 3: Are there any adverse impacts on any other groups within the NSW community?

We are particularly concerned about victim-survivors who recognise that they have experienced coercive control and seek assistance from police, but whose reports are not recognised or investigated as coercive and controlling behaviour.

Our casework includes victim-survivors who are able to identify coercive control but remain reluctant to report because of previous experiences with police, as well as victim-survivors who do report and feel that their concerns are dismissed or not appropriately investigated.

This is particularly concerning where the abuse is financial or economic. Victim-survivors may report coerced debt, fraud, misuse of identity documents, interference with employment, control of accounts or post-separation financial pressure, but we continue to hear reports that the responses from the NSW Police may still treat the matter as civil, family law, credit and debt, or, in rare cases, fraud only.

[14] Aboriginal Legal Service (NSW/ACT), Submission to NSW Department of Communities and Justice, *ALS Submission on Draft Exposure Crimes Legislation Amendment (Coercive Control) Bill 2022 (NSW)* (2 September 2022) <https://assets.nationbuilder.com/alsnswact/pages/1083/attachments/original/1711513101/ALS_Submission_on_Draft_Exposure_Crimes_Legislation_Amendment_%28coercive_control%29_Bill_2022_%28NSW%29_2.9_Redacted.pdf>

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Case Study: Perpetrator misuse of legal systems: RLC matter 217792

Yasmeen (*) was in a relationship with Johan (*) for six years. Johan had to relocate for work for a period of time during that time. Yasmeen remained in the family home with their young daughters. Johan provided her with a credit card to purchase necessities for the children and run the household in his absence. After the breakdown of the relationship, Johan made a number of claims against Yasmeen through a number of different pathways. These included:

- Commencing a Family Court Application for relocation of the children to live with him, despite having minimal care for the children prior to the breakdown of the relationship;
- Commencing a Local Court claim for use of the credit card that he had authorised;
- Reporting to NSW Police that Yasmeen was engaging in stalking and harassment against him;
- Seeking to have her visa cancelled by emailing the Department of Home Affairs; and
- Commencing Local Court proceedings for a private AVO.

Though the proceedings have not been successful, the time, costs and effort taken to respond to each of these attempts to impact her life in turn have had ongoing impacts on Yasmeen's health and wellbeing, as well as her finances. FAS has assisted with a number of these proceedings, but Johan continues to make threats to commence new proceedings without any reasonable basis.

**Name has been changed (AS 217792)*

In addition to the issues in making reports, we maintain our concerns about the misuse of this offence in its current form by perpetrators of violence. In our submission in 2022, we stated:

> *"The legislation should explicitly address the need to consider the imbalance of power. The creation or exploitation of this imbalance of power is key to perpetrators continuing to trap victim-survivors in abusive relationships. We are concerned that without recognition of this power imbalance, the behaviour of victim survivors of coercive control may be misconstrued by police or even used by perpetrators to threaten police intervention. This could result in those fleeing from a relationship characterised by coercive control or taking steps to protect themselves from an abusive partner, being charged with a [coercive control] criminal offence."*

Some victim-survivors also experience perpetrators misusing financial, legal and administrative systems as part of continuing coercive control. In financial abuse matters, this may include misuse of joint bank accounts, tenancy arrangements, utilities, telecommunications accounts, family law processes, Centrelink or other government processes. We are concerned that protective behaviours used by victim-survivors will be construed as coercive control, if the guidance is unclear and the imbalance of power is not recognised.

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Recommendation 6: NSW Police should be provided with clearer guidance for identifying and responding to financial and economic abuse as coercive control, including where there is no recent physical violence or accompanying physical offence.

Question 4: Should the mental element of the coercive control offence be extended to include recklessness?

Yes. We support extending the mental element to include recklessness in relation to coercion or control.

The current offence requires proof that the perpetrator intends the course of conduct to coerce or control the other person. In practice, this is a high bar, particularly for financial and economic abuse. These matters often involve patterns of conduct, including debts, account control, document signing, interference with employment, or post-separation financial pressure.

The Discussion Paper records a strong perception within the domestic and family violence sector that the current requirement is an "insurmountable hurdle" which can prevent police laying charges for coercive and controlling behaviour. This concern is consistent with the low uptake of the offence to date.

In the RLC Bill submission[15] on the Exposure Draft Bill, we supported framing the mental element around intentionally or recklessly coercing or controlling another person, rather than causing physical or mental harm. In our view, the current intention requirement may be contributing to the difficulty of charges relevant to the offence in practice.

Extending the mental element to recklessness in relation to coercion or control would better reflect cases where a person may not admit a specific intention to coerce or control but is aware of the harm their repeated behaviour will have and proceeds regardless.

The evidentiary difficulty is particularly apparent in financial abuse matters. Individual behaviours can occur over a long period of time and can often be rationalised when taken out of context - for example, as an individual event instead of as part of a course of conduct. A perpetrator may claim they control finances because the victim-survivor is bad with money, monitor expenditure for budgeting purposes or restrict access to accounts for allegedly legitimate reasons. Such explanations should be assessed against a course of conduct and the harm caused by the behaviours.

This change should be preceded by police training and guidance. It will not resolve implementation issues on its own. We consider this reform must also include systems and culture change.

Recommendation 7: Amend section 54D(1)(c) to extend the offence to circumstances where the person intends to coerce or control the other person or is reckless as to whether the course of conduct will coerce or control them. This amendment should not commence until appropriate police training, guidance and implementation safeguards are in place.

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[15] *RLC Bill Submission* (n1) 12.

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Question 5: Should the criminal offence of coercive control apply to other relationships beyond current and former intimate partners?

In principle, yes. We previously recommended that the offence apply to all domestic relationships as defined in section 5 of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW)[16]. We maintain that position in principle.

Financial abuse and coercive control can occur outside intimate partner relationships, including in broader family and dependency relationships. Our previous submissions noted that limiting the offence to intimate partner relationships risks excluding people experiencing coercive control by extended family members, adult children, or other domestic relationships.

However, we do not consider that the offence should be expanded immediately.

We maintain the concerns raised elsewhere in this submission as well as our previous submissions. Expansion would require police to apply the offence in more varied relationship contexts. That will require clear definitions, practical examples, community consultation and guidance on how to identify the person most in need of protection.

Before expansion, we recommend:

- clearer legislative definitions and examples of financial and economic abuse
- evidence of improved police practice in identifying coercive control
- consultation with specialist organisations with expertise in the relationships and communities affected by expansion
- clear guidance for police on how the offence would operate outside intimate partner relationships.

We do not support expanding the offence beyond domestic relationships, such as to informal support workers or segregated employment settings, without further evidence and consultation.

Recommendation 8: Extend the offence to domestic relationships as defined in section 5 of the *Crimes (Domestic and Personal Violence) Act 2007* in principle, but do not commence any expansion until there is stronger evidence that the current offence is being implemented safely and effectively.

Question 6: Are the penalty settings under the coercive control offence suited to the behaviours captured?

We do not make a submission on the maximum penalty for the offence.

Question 7: The offence includes a non-exhaustive list of behaviours. Another list exists in different legislation. Should the list under section 54F(2) of the Crimes Act be aligned with section 6A(2) of the Crimes (Domestic and Personal Violence) Act 2007 (CDVP Act)?

Yes. The lists should be aligned, but alignment alone is not enough.

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[16] *RLC Bill Submission* (n1) 13; *EARG Bill Submission* (n1) 13

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We support consistent language across the *Crimes Act* and the *Crimes (Domestic and Personal Violence) Act 2007*. However, economic and financial abuse should also be clearly defined in both Acts.

Neither "economic abuse" nor "financial abuse" is defined in the current legislation. Instead, the legislation relies on broad concepts and examples.

This is not merely a question of terminology. Where economic and financial abuse is not clearly defined and expressly recognised, there is a risk that it will continue to be overlooked or given less weight in police identification, investigation, training and data collection. Economic and financial abuse are not well understood by the general public and, in our experience, are still not consistently recognised and understood by police and other decision-makers.

This was a concern raised in our previous submissions[17] and it remains relevant. Economic and financial abuse behaviours are perpetrated in a varied and often sophisticated way. Having a short list of examples without an underlying definition can have a limiting effect. Although the statutory lists are expressly non-exhaustive, in practice examples may come to be treated by decision-makers as the boundaries of the behaviour contemplated by the legislation. Without clear definitions, the risk that victim-survivors will not be supported where their experience does not fit within the existing examples will continue.

We also reiterate the importance of harmonisation more broadly. Economic and financial abuse does not operate in a legal vacuum and may intersect with family law and other Commonwealth and state legislation. We have previously referred to the Australian Law Reform Commission's recommendation for greater consistency in family violence definitions across jurisdictions[18].

We consider the definition contained in section 8 of the *Domestic and Family Violence Act 2007* (NT)[19] provides a useful starting point:

"Economic abuse is conduct that is coercive, deceptive or unreasonable and results in the person losing economic or financial autonomy or suffering economic or financial loss or damage."

The NT provision supports that definition with a detailed non-exhaustive list of examples. We would support using that approach as the basis for consultation on a NSW definition, with amendments to the examples to reflect other contemporary forms of financial and economic abuse. Examples of behaviours can be found below in our answer to Question 8.

Recommendation 9: Amend the *Crimes Act* and *Crimes (Domestic and Personal Violence) Act 2007* to include a definition of economic and financial abuse, supported by a broader, non-exhaustive list of examples.

[17] *RLC Bill Submission* (n1) 6; *EARG Bill Submission* (n1) 8.
[18] *EARG Committee Submission* (n3) 5.
[19] *Domestic and Family Violence Act 2007* (NT) s8.

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Question 8: Do you have further suggestions for behaviours to be recognised in the non-exhaustive list under section 54F(2)?

Yes. The current economic and financial abuse examples capture only a subset of the behaviour seen in our casework. There continues to be no express examples addressing other common forms of financial and economic abuse such as:

- coercing, deceiving or pressuring a person to enter into a loan, credit arrangement, guarantee or other financial commitment
- creating, transferring or imposing a debt, financial obligation or legal liability on a person without the person's knowledge, understanding or consent
- obtaining, using or disposing of a person's money, assets, property or economic resources without the person's knowledge, understanding or consent
- forcing, coercing or pressuring a person to transfer, sell or surrender money, assets, property, superannuation or other economic resources
- damaging, concealing, disposing of or otherwise interfering with a person's property, financial records or other economic resources
- incurring debts, defaulting on financial obligations, or engaging in conduct that adversely affects a person's credit history, credit rating or financial standing
- preventing or restricting a person's ability to access banking, financial, legal or taxation information or services
- coercing a person to make a power of attorney, guardianship arrangements, joint financial arrangement or other legal or financial authority for the benefit of another person
- coercing, pressuring or threatening a person, or a member of the person's family, to provide money, property, assets or other benefits in connection with a dowry or purported dowry arrangement

These were issues identified in our previous submissions[20] and continue to be relevant today.

The two examples in the current legislation continue to have a limiting effect such that if victim survivor reports financial abuse that does not fall within the examples, they will not be supported by police.

Expanding the list of examples of economically and financially abusive behaviours would help police and the judiciary recognise and respond to this form of coercive control. Examples are useful tools, but they should sit alongside a clear definition and remain expressly non-exhaustive.

We consider the examples contained in section 8 of the *Domestic and Family Violence Act 2007* (NT) provide a useful starting point for NSW.

[20] *RLC Bill Submission* (n1) 6; *EARG Bill Submission* (n1) 8.

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Recommendation 10: Expand the non-exhaustive list of examples in the *Crimes Act* and *Crimes (Domestic and Personal Violence) Act 2007* to expressly recognise common forms of economic and financial abuse.

Question 9: Should any of the other parts of Division 6A, Part 3 of the Crimes Act that are being reviewed be changed or updated?

We refer to our responses above. We do not make further submissions on this question.

TRAINING, EDUCATION AND AWARENESS

Question 10: Do you have any feedback or views about the application of the definition of domestic abuse under section 6A of the *Crimes (Domestic and Personal Violence) Act 2007*?

We support the statutory definition of domestic abuse under section 6A of the *Crimes (Domestic and Personal Violence) Act 2007*. We reiterate our concerns made earlier in this submission about the need to define economic and financial abuse and expand the non-exhaustive list of examples of economically and financially abusive behaviours.

There are indications from our casework that community understanding of coercive control has improved. Some victim-survivors are better able to identify and name the coercive and controlling behaviour they have experienced. However, greater awareness has not always been matched by an appropriate police response. We continue to see victim-survivors who attempt to report coercive control but feel dismissed or turned away, as well as clients who are reluctant to report because of previous police experiences. This is particularly evident where the abuse is financial or otherwise non-physical.

The Discussion Paper records substantial investment in NSW Police training. We acknowledge and support continued training. However, training should not be treated as an end in itself. The statutory review is required to consider the effectiveness of the training, not simply the type and number of people trained. Our experience indicates that significant work remains to translate knowledge of coercive control into consistent frontline practice.

The effectiveness of the NSW program should therefore be assessed by changes in practice, not simply by how many officers have undertaken training. For NSW, the measure of success should therefore include whether officers:

- look beyond the immediate incident
- ask about the broader relationship and patterns of behaviour
- recognise economic and other non-physical abuse
- gather appropriate financial, digital and third-party evidence
- identify the correct primary perpetrator
- communicate appropriately with victim-survivors
- use coercive control understanding when investigating other domestic violence offences.

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Training is necessary, but it must be supported by broader cultural and systems reform, leadership, supervision, accountability and adequate funding to resource frontline services.

Recommendation 11: The review should assess the effectiveness of coercive control training by reference to changes in police practice, including whether officers are identifying courses of conduct, recognising financial and economic abuse, identifying the correct primary perpetrator, gathering appropriate evidence and responding appropriately where there is no recent physical violence.

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