

27 October 2022

Dr James Popple
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Dear Dr Popple

DRAFT NATIONAL PRINCIPLES TO ADDRESS COERCIVE CONTROL

I refer to the invitation to participate in a consultation on the draft National Principles to Address Coercive Control (**National Principles**) received from the Law Council of Australia on 21 September 2022.

Coercive control is a complex area to address, as it has a diverse range of victims/survivors and perpetrators, and it has multiple and complex causes and risk factors. The crux of the issue is that there are differing views in the legal community on this issue given its complexity, and this may make a one factor solution elusive.

There is support for the discussion and implementation of a national approach regarding coercive control which will help to develop a further understanding of coercive control and how it manifests. However, there are also concerns that coercive behaviours are far from adequately researched and there is support for an education and therapeutic approach to be taken rather than set out principles which attempt to define coercive control.

In any event, the Law Society would like to raise several issues with the principles which form part of the 'common features', for consideration:

- 1) *In intimate partner relationships, coercive control is most often used by cisgender male perpetrators against women (both cisgender and transgender) who are their current or former partner, and their children.*

This principle may need to be expressed in a more nuanced way, taking into account the following:

- 1 in 4 women vs 1 in 6 men are subject to coercive control by a partner or former partner;
- females represent 52.3% and males 47.7% of victims of emotional abuse by a current partner;¹
- emotional abuse is distinguishable from coercive control;

¹ Australian Bureau of Statistics, /Personal Safety, Australia, 2016/(Catalogue No 4906.0, 8 November 2017) <<https://www.abs.gov.au/ausstats/abs@.nsf/mf/4906.0>>(<https://www.abs.gov.au/ausstats/abs@.nsf/mf/4906.0>) >.

- coercive control and other forms of family and domestic violence are widely recognised and evidenced in the research as being significantly driven by gender inequality, resulting in the most significant harm to women and children.

2) *Family and domestic violence, including coercive control, is driven by gender inequality within society.*

Again, this principle may need to be expanded upon. As noted above coercive control and other forms of family and domestic violence are widely recognised and evidenced as being significantly driven by gender inequality. However, the National Principles need to make allowance for coercive control as experienced by men, Indigenous peoples, and members of the LGBTIQ+ community.

3) *Coercive control can be used by or against people of all genders, sexual orientations, cultures and classes.*

This statement reflects the points being made above in (1) and (2) and illustrates a need to express the National Principles in a manner which does not result in them being internally contradictory.

While the intentions behind the National Principles are admirable, if the Commonwealth, state, and territory governments are going to take action to implement the National Principles the following questions should be addressed:

1. what are the current frameworks being used to identify and address coercive control?
2. what are the gaps in legal protection for victims/survivors of coercive control?
3. could these gaps be addressed through:
 - a. educational programs targeting potential perpetrators;
 - b. educational programs targeting potential victims/survivors;
 - c. financial, telecommunications and legal assistance packages for victims/survivors seeking to leave coercive relationships;
 - d. expansion of Family Violence Restraining Order (FVRO) provisions; and
 - e. expansion of the criminal law to criminalise coercive control;
4. what are the legal ramifications of the potential expansion of the FVRO or criminal provisions to address coercive control?
5. what evidence is there from other jurisdictions regarding the above? and
6. what are the risks of abuse of the system by false or tactical accusers? How are those risks being mitigated?

Given the differing views and complexities which arise from this area, the Law Society does not wish to make a more detailed submission.

Please let me know if the Law Society could provide further assistance to you in your consideration of this matter. If you have any queries please contact Mary Woodford, General Manager Advocacy and Professional Development on (08) 9324 8646 or mwoodford@lawsocietywa.asn.au.

Yours sincerely



Rebecca Lee
President