



Submission to South Australian

 **No to Violence**
Working together to end men's family violence

Government's Consultation on Criminalising Coercive Controlling Behaviours (Amendment Bill)

Acknowledgment of Country

No to Violence acknowledges First Nations Peoples across these lands; the Traditional Custodians of the lands and waters. We pay respect to all Elders, past, present, and emerging. We acknowledge a deep connection with country which has existed over 60,000 years. We acknowledge that sovereignty was never ceded, and this was and always will be First Nation's land.



Authorised by:

Jacqui Watt, Chief Executive Officer

Email: jacquiw@ntv.org.au

Prepared by:

Fiona Williamson (contact author), Manager, Policy and Research

Email: policyandresearch@ntv.org.au

Charity Wahome, Policy Officer

Email: charityw@ntv.org.au

Isobel Montgomery, Policy Officer

Email: isobelm@ntv.org.au

Emily Steele, Policy Officer

Email: emilys@ntv.org.au

About No to Violence

No to Violence is Australia's largest peak body representing organisations and individuals working with men to end family violence. We are guided by the values of accountability, gender equity, leadership, change, and respect.

No to Violence provides support and advocacy for the work of specialist men's family violence interventions carried out by organisations and individuals. The work undertaken by specialist men's family violence services is diverse and includes but is not limited to Men's Behaviour Change Programs (MBCP), case management, individual counselling, policy development and advocacy, research and evaluation, and workforce development and capability building.

No to Violence also provides a range of training for the specialist men's family violence workforce including a graduate certificate in partnership with Swinburne University, as well as professional development for all workforces who come into contact, directly and indirectly, with men using family violence.

No to Violence is a leading national voice and plays a central role in the development of evidence, policy, and advocacy to support the work of specialist men's family violence nationally and in Victoria, New South Wales, South Australia, and Tasmania.

About Our Members

No to Violence represents 183 members Australia-wide. Our membership structure is inclusive of individuals and organisations ranging from specialist services to individuals and groups who have an interest in preventing and responding to men's family violence.

Process of developing submission

Across November 2020 to April 2021, No to Violence consulted with around 500 individuals from across Australia around coercive control. This included enabling community and cohort-led roundtables for victim survivors, First Nation's Women, LGBTIQ+ individuals and communities, people from migrant and refugee backgrounds, Older Australians, and people living with disability.

This culminated in a national roundtable with attendees and experts from across Australia. These discussions, knowledge and experiences have strongly informed the development of this submission.

We thank all those involved for their generosity, respect, and conversation.

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Question 1: Do you think that these new offences will increase the ability of the criminal justice system to respond to non-physical forms of domestic abuse and to protect victims from that abuse?

Participants throughout No to Violence’s community consultations and National Sector roundtable expressed a need for legislation that reflects all forms of coercive and controlling behaviours. The proposed bill moves towards accomplishing this, as all components of the amendment bill are aimed towards criminalising coercive control. The inclusion of section 20(b), and the inclusion of the heading ‘Division 7AA- Relationship offences’, sufficiently emphasises (makes distinct) acts of abuse within a relational context. Importantly, explicitly making intentional or reckless behaviour an offence in part captures the cyclical nature of abuse. No to Violence also welcomes the wrap-around approach in shifting the definition of abuse through the amendments to other acts. These additions are well received by No to Violence, as they can serve to honour the diverse experiences of victim-survivors.

No to Violence recognizes that legislation can and, in some cases, should form part of a holistic response to coercive control. However, new offenses will only increase the ability of criminal justice systems to respond to non-physical forms of domestic and family violence (DFV) insofar as these systems are able to correctly identify non-physical abuse; and insofar as the family violence sector can provide services for victim-survivors and for perpetrators. Reform within the criminal justice system, funding for the sector, community education on coercive control, and wrap-around services for victim-survivors and perpetrators will determine the ability of the justice system to protect victim-survivors from coercive control.

In summary, while developing new criminal legislation can be part of a system-wide approach to ending domestic violence, it should not be the primary approach. Where it is the primary approach, No to Violence strongly recommends that a significant period of consultation occurs between passing new legislation and the implementation of new legislation.

Embolden, South Australia’s largest peak body for domestic and family violence organisations, recommends a similarly “cautious approach to the implementation of any new offences”¹ in their position paper on coercive control. The Attorney General’s Department must seriously consider Embolden’s priority action areas, namely action area 2 – consult and research.² Here, Embolden encourages the South Australian Government to engage in extensive consultations to ensure best legal practice standards are met, and to build the evidence base that informs reform responses. Just as important is priority action area 3, which is around investment and training for the sector³.

Therefore, No to Violence strongly recommends that the South Australian government consider embarking on a rigorous program of structural reform and develop an implementation strategy prior to passing new criminal legislation. No to Violence strongly advocates that systemic reform is already

¹ Embolden 2021, *Position paper on coercive Control and the law in South Australia*, Embolden SA Inc, South Australia, viewed 28 September 2021, < <https://embolden.org.au/wp-content/uploads/2021/09/Embolden-Position-Paper-on-Coercive-Control-and-the-Law-in-SA-1.pdf>>

² Embolden, p.8.

³ Embolden, p.8.

underway before legislation is implemented- this approach was echoed by a number of participants throughout No to Violence’s consultations and across advocates in the sector. It was also the approach taken in Scotland when rolling out their coercive control reforms, and the long research and consultation time with the sector was critical to the success of the legislation.

Question 2: Are there any other behaviours you think should be included in the definition of an act of abuse?

Section 12a of the proposed legislation covers multiple forms of abuse that are otherwise not covered by the additional areas specified in Sections 12b-12i. However, victim-survivors and advocates have continuously commented on the importance of coercive control legislation having thorough explanations of all forms of abuse. Having such explanations available serves a dual function: providing victim-survivors with vital information on lesser-recognised forms of abuse while also reflecting the unique experiences of coercive control in diverse cohorts across South Australia, including First Nations peoples, those with migrant and refugee backgrounds, LGBTQIA+ individuals and community, and individuals living with disability. Crucially, this legislation must recognise that a nuanced understanding of abuse in these communities is required rather than a “one size fits all” approach.

The amendment should consequently include and clearly describe the following forms of abuse:

Spiritual abuse

Spiritual abuse or coercion is of particular concern for First Nations communities, but also for any victim-survivors who engage in spiritual or religious practices. During our consultation with First Nations representatives and members, the idea of spiritual abuse and/or coercion was emphasised as particularly important. Examples included threatening to remove a First Nations woman from Country or preventing her from accessing Country or cultural events. For non-Indigenous Australians, spiritual coercion may include being prevented from attending places of worship or from engaging in specific practices or rituals (e.g. prayer). Spiritual abuse must be included in a complete definition of an act of abuse, as it is a clear establishment of control over a victim-survivor's spiritual or religious life.

First Nations peoples’ specific experiences of abuse

Coercive control legislation must recognise First Nations peoples’ specific and varied experiences of abuse. Participants in the No to Violence First Nations forum emphasised the complex and varied nature of abuse in their communities, including situations where an abuser excludes the victim-survivor from fully engaging within their community. While Section 12(e) does identify isolation from friends, relatives or sources of support, the definition should specifically highlight its relevance for First Nations peoples experiencing abuse.

Deprivation of liberty within a cultural context

People from migrant and refugee backgrounds experience targeted forms of coercive control that deprive them of their liberty and agency and must be understood and factored into any formulation

of a legislative solution. Participants in No to Violence’s migrant and refugee forum on coercive control stated that victim-survivors experience coercive control in unique ways that impact their overall agency. Such experiences include dowry control; weaponizing visa status (including mistrusts) and threats to “report them to Home Affairs” to control their behaviour; and the use of extended family and community to perpetuate forms of abuse (e.g. isolation). The threat of deportation of victim-survivors on a spousal visa was suggested as being a particular concern for victim-survivors in these communities. Importantly, participants believe the result of coercive control is significant ‘psychological damage’ and ‘damage to sense of self’.

Abuse specific to LGBTQIA+ communities

LGBTQIA+ communities similarly experience specific forms of coercive control that, while broadly covered in the proposed legislation, require more nuanced explanation. For example, in No to Violence’s Roundtable that discussed the impacts of coercive control for LGBTQIA+ communities, participants identified several abusive behaviours specific to LGBTQIA+ relationships: body shaming around the presentation and expression of gender identity; vilification of diverse gender expression; threats to out a person’s gender identity, sexual orientation or HIV status; using the lack of LGBTQIA+ support services to undermine a partner; asexual experiences of “coerced consent” around undesired sexual interactions; and medical coercion such as someone pressuring their asexual partner to “fix” their asexuality through medical intervention. Consequently, the proposed legislation must identify patterns of abuse that recognise and respond to these diverse experiences in LGBTQIA+ relationships.

Abuse specific for people living with disabilities and their families

People living with disability are at a heightened risk of experiencing coercive control from their intimate partners and family members. They are more likely to experience all forms of physical, psychological and sexualised violence, as well as unique forms of violence, than are experienced by people who do not live with disability, including specific acts such as withholding of important medications, restricted access to mobility aids and communication devices, as well as neglect and poor care.

Participants in No to Violence’s consultation forum on coercive control with people living with disability spoke about abuse specific to their community. Emphasis was placed on the institutions and organisations that enable and house abusers, especially by positioning perpetrators as a person’s primary carer, or as partner to the primary carer (i.e. when the primary carer is a biological mother, and a father/boyfriend/partner is the abuser). The proposed legislation must specifically acknowledge the unique forms of violence perpetrated against people with disabilities.

Technology-facilitated abuse

Technology-facilitated abuse is an increasingly insidious form of gendered violence. Recent research produced by ANROWS in 2021 demonstrates that women are overwhelmingly the target of online forms of abuse, and that technology-facilitated abuse is a growing concern for people experiencing

family violence.⁴ Technology-facilitated abuse includes but is not limited to receiving abusive messages or calls; account take-overs; image-based abuse; fake social media accounts being used to harass or intimidate a person; and, being tracked through a phone or device using spyware or other GPS technology.

There is a pressing need to carefully consider the role technology-facilitated abuse can play in coercive control, especially as new opportunities for abuse are created in our changing digital landscape. For example, harassing and repeated text messaging is now a common feature of controlling behaviour in abusive relationships. In one particularly illustrative case from Queensland, a woman contacted police after receiving in excess of 300 messages from her partner during a 12-hour period. This behaviour was not correctly identified as cause for concern and no police intervention was made. The perpetrator's abusive behaviour escalated, and he ultimately murdered his partner. This devastating outcome provides an important example of how technology-facilitated abuse can be part of patterns of coercive control, and why it should be considered in legislation criminalising this behaviour.

Threatening or attempting suicide or self-harm

No to Violence notes that 'threatening or attempting suicide or self-harm' is not included in this legislation. Threatening or attempting suicide is a common feature in many cases of coercive and controlling behaviour. Men often use such threats to deter their partners from leaving; from reporting their violence; or from seeking help or community. Embedding this in legislation would enable domestic and family violence services to better establish patterns of behaviour.

Question 3: The offences are confined to people who have been or are in a relationship. Are there other relationships that should be captured by this offence?

The proposed amendment focuses primarily on monogamous intimate partnerships and requires improvements to ensure the legislation covers diverse forms of coercive control, including but not limited to exerting coercive control over a parent or a child; coercive control in familial and non-familial caring relationships; or exerting coercive control over a daughter-in-law or other extended family members. Coercive control can be perpetrated across many different forms of relationships, including intimate partner, and other close and familial relationships. It is important these are included within context of any offence for coercive control.

Importantly, the amendment provides narrower terms for the definition of a relationship than what is outlined in the original Criminal Law Consolidation Act 1935. Section 4a of this Act makes provisions for a number of relationships that are not inherently romantic in nature, including those related according to Aboriginal or Torres Strait Islander kinship rules, parents, or guardians of children, and those who are "in some other form of intimate personal relationship in which their lives are

⁴ Flynn, A, Powell, A, & Hindes, S 2021, *Technology-facilitated abuse: A survey of support services stakeholders (Research report, 02/2021)*, ANROWS, Sydney, viewed 1 September 2021, <<https://www.anrows.org.au/publication/technology-facilitated-abuse-a-survey-of-support-services-stakeholders/>>

interrelated and the actions of 1 affects the others". No to Violence strongly recommends that the proposed amendment considers a similarly holistic definition of relationships to ensure that all persons experiencing coercive control are protected under law.

Whilst the responsibility of parents for their children who are minors indicates a power imbalance of authority over another, there are times (especially with teenage and adult children) where the means of exercising this authority may constitute coercive control. This is dependent on intent and impact. In order to ensure the proposed legislation recognises the difference between coercive control and parenting, consultation should occur with child and family organisations such as Child and Family Focus SA (CAFFSA), Relationships Australia SA and Act for Kids.

Participants in No to Violence consultations on the criminalisation of coercive control also discussed the role of carers (including non-family members) for people with disability; the adult children of older Australians (particularly with powers of attorney); 'mob' in First Nations communities; 'in-laws' within migrant and refugee communities; and parents of adolescent LGBTIQ+ individuals. In all cases, there is still the potential for coercive control to occur without the establishment of an intimate and monogamous relationship.

There are countless other examples, indicating the scope of relationships included within any offence must be broader than intimate partner or immediate family relationships, with impacts on the victim-survivor and state of mind / intention being central.

Question 4: Do you consider the minimum of 2 acts of abuse to constitute an offence to be an appropriate number?

Yes. A minimum of two acts of abuse recognises is an ongoing pattern of behaviour, not just a single incident. This also highlights that those who choose to use violence do so in a continual nature throughout abusive relationships. Participants in all of No to Violence's consultations and roundtables strongly emphasised that any coercive control legislation clearly recognises the historical nature of coercive control. Nevertheless, this clause is only as effective as law enforcement officials are able to recognise, and adequately police, patterns, and histories of coercive control.

Question 5: Do you agree that offences which involve abusive behaviour directed at a child, or committed in the presence of a child, should attract a higher maximum penalty?

Yes. The strong emphasis on children in s20B(a) (b) and (c) serves to honour and recognise the experience of children as victim-survivors in their own right and to acknowledge that children can, and often are used as tools of coercive control. Advocates in this sector encourage the recognition of children who experience domestic and family violence as victim-survivors in their own right. This legislation makes positive steps towards recognising the implications of abuse on children who experience and witness it, as they too require the ability to have their abuser(s) brought to justice.

Research shows that abuse has long-lasting impacts on the psycho-social development of children, including through disruptions to attachment styles and resultant difficulties in forming interpersonal

relationships.⁵ Additionally, children who experience abuse have higher likelihoods of developing learning and developmental issues, experiencing behavioural issues in later life, as well as struggles with mental illness and substance abuse.⁶

Research shows that the impact of abuse on children who experience, or witness abuse, may have generational implications. Men who experience family violence as children are more likely to perpetrate family violence in adulthood; similarly, women who experience family violence as children are more likely to be victimised as adults. Further research points to the intersectionality of childhood experiences of abuse, and adult-onset substance abuse, mental health illnesses and other issue.

Question 6: Do you think it appropriate to introduce a presumption against bail where a person is charged with this offence?

Yes. Research demonstrates that perpetrators are most likely to escalate their violence immediately after being reported and/or charged. Men who use family violence are adept at manipulating systems to facilitate their abuse and a presumption against bail would add a barrier to their ability to escalate and perpetuate abuse. Furthermore, coercive controlling behaviour is an indicator for increased risk of intimate partner homicide. In this context, any perpetration of coercively controlling behaviour presents a significant risk of reoffending while on bail and should be considered with urgency.

No to Violence strongly recommends a wrap-around system that supports the introduction of a presumption against bail. The South Australian government must ensure the court system and sector organisations are well funded and resourced to appropriately carry out this reform in a manner that does not inadvertently harm victim-survivors.

Question 7: Do you think it's appropriate that victim-survivors of this offence have access to supports while giving evidence? For example, a prohibition on the accused cross examining the victim-survivor in person?

Yes. Participants throughout No to Violence's community consultations consistently asserted that "court is a re-traumatising experience". Pre and post support for victim-survivors during the court experience is essential for the safety and wellbeing of victim-survivors. Empowering supports can include free consultation and representation; help with understanding the family violence legal and court system; and access to protective supports during and after the court process. Women's Legal Safety Services is a South Australian service that provides such support. No to Violence strongly

⁵ Child Family Community Australia 2014, *Effects of Child Abuse and Neglect for Children and Adolescents CFCA Resource Sheet*, Child Family Community Australia, viewed 1 October 2021, <<https://aifs.gov.au/cfca/publications/effects-child-abuse-and-neglect-children-and-adolescents>>

⁶ Institute of Medicine and National Research Council 2014, *New directions in child abuse and neglect research*, The National Academies Press, Washington DC, p428.

recommends that new and additional funding is directed towards services like WLSSA prior to the implementation of a new criminal offence.

To increase the accessibility of these supports, the SA state government should extend their support of existing legal services that serve victim-survivors. Currently, the Legal Services Commission of SA provides a Women's Domestic Violence Court Assistance Service that provides specialised and free legal assistance for women in South Australia affected by domestic and family violence. Additionally, Women's Legal Services SA offers a Family Law & Family Violence program providing legal assistance to women fleeing family violence, as well as the Aboriginal & Torres Strait Islander Women's Program that works specifically with First Nations women and their communities.

No to Violence strongly recommends that these programs, and other South Australian services focused on providing legal assistance to victim-survivors, receive new and additional funding before the implementation of coercive control as a criminal offence. This action is necessary to ensure supports remain accessible to victim-survivors, especially as demand may potentially increase during the legislation's implementation.

Question 8: Following consultation, if a Bill is introduced by the state government and passed by Parliament, it is the state government's intention to consult further to develop a comprehensive implementation plan. Do you have any further comments on what themes should be considered in the implementation plan and what further training or education might be required?

No to Violence is very concerned about the South Australian Government's plan to introduce legislation before considering an implementation plan. As noted elsewhere, legislation criminalising coercive control will not in and of itself prevent or end the perpetration of coercive control, nor will it protect victim-survivors from coercive control. No to Violence strongly encourages the South Australian government to consider how new legislation would be implemented and engage in much-needed structural reform prior to criminalising coercive control.

The implementation plan must incorporate best practice from Australian and international jurisdictions where similar legislation has been implemented. It should be built on a strong foundation of consultation with key actors, most notably the family violence sector and affected communities.

Any plan to criminalise coercive control must also begin with careful planning regarding education and training. This includes prioritising on-going training for the criminal justice system to ensure new legislation can be consistently and appropriately implemented. Responding to coercive control necessitates moving away from our current incident-based policing system—and if the criminal justice system hopes to be effective in its criminalisation of coercive control, it must have the education and training to do so.

The implementation plan must consider the impacts of this legislation on marginalised communities, the voices of experts and peak bodies, and funding needs of the South Australian domestic and family violence sector.

Impact on marginalised communities

There are significant concerns regarding the criminalisation of coercive control in the absence of structural reform. For example, criminalisation has the potential to put more First Nations peoples into prison. This is highly problematic considering both First Nations men and women are already disproportionately overrepresented in Australia's custodial system.

In our consultation with First Nations peoples, the importance of restorative justice and alternatives to criminal justice responses was emphasised. First Nations communities are overpoliced and over incarcerated, and First Nations cultures provide alternatives to such punitive measures. In the face of already high incarceration rates of First Nations peoples, participants strongly advocated for alternative pathways to criminalisation (e.g. culturally appropriate and community-led early intervention and behaviour change programs).

Many participants asserted that legislation must be formed in consultation with First Nations Elders and leaders – and that the current approach in South Australia represented insufficient time to properly engage with First Nations Peoples.

No to Violence considers genuine engagement with First Nations communities essential in the development of any offence, noting the likelihood of disproportionate unintended impacts on these communities if not done well. Genuine consultation must be adequately resourced—with human resources, time, and funding to facilitate deep engagement.

People from migrant and refugee backgrounds also face significant and unintended consequences regarding the criminalisation of coercive control. People on temporary visas may face deportation if charged with a criminal offence, and perpetrators are able to use the threat of deportation to deter victim-survivors from reporting abuse. In the case of partner visas, there is a profound risk that this could result in the deportation of victims of family violence. The current arrangements present a considerable risk that victims on temporary or spousal visas will not reach out for support out of fear for the immigration implications.

Whilst No to Violence notes that visa and migration issues are a matter for the Australian Government, it critical to note the importance of:

Strong advocacy from the South Australian Government regarding reform of the visa system, to better protect victim-survivors from migrant and refugee backgrounds.

A system response which does not force criminal proceedings, noting in the cases of some partner visas women will be deported if their perpetrator receives a criminal conviction.

Open consultation for peak bodies

As learned from past experiences in the national and international contexts, open consultation with peak bodies in the domestic and family violence sector is key to thoroughly investigate and address potential challenges in the legislation's implementation. In particular, the South Australian government should conduct consultations with state-based peaks, including Junction, Women's Legal Services SA, Uniting Communities, Relationships Australia South Australia, Office for Women SA, Women's Safety Services SA, and Embolden. The South Australian government must also consult specifically with Aboriginal-led organisations and services in the sector, as well as peaks and services for multicultural, women with disabilities, Older Australians and LGBTIQ+ organisations, to ensure these groups receive a voice at the table and can help identify and mitigate any unintended impacts.

However, the South Australian government should consult peaks interstate and overseas who have previously contributed to coercive control legislation for lessons learnt, particularly around the pre-conditions necessary for successful implementation of new legislation and unforeseen issues (for instance, in Scotland they did not anticipate the need to change particularly pieces of legislation relating to children that created a barrier to effective system change alongside the coercive control legislation). Organisations that work in jurisdictions where legislation has been or is currently being implemented, such as Queensland, New South Wales, Tasmania, Scotland and England, are a vital part of the discussion regarding the challenges and opportunities of implementation.

Should the South Australian Parliament proceed with making coercive control an offence, there is a significant opportunity to learn from the advantages and shortcomings of the legislation interstate and in the United Kingdom, and to make necessary adaptations to create the new 'gold standard'.

Consultation with experts in the sector (national and international)

Consultations should also draw on the expertise and knowledge of experts in the sector, especially experts that are victim-survivors, First Nations women, LGBTIQ+ individuals and communities, and people from migrant and refugee backgrounds. No to Violence has previously drawn upon experts from across Australia, England and Scotland to inform our submission on coercive control legislation in New South Wales and Queensland. These experts provide a diversity of practice knowledge, lived experience and other expertise that are important for ensuring coercive control legislation is considerate of a broad range of circumstances.

Funding

In order to provide the support necessary to support victim-survivors and perpetrators of abuse, the family violence sector requires significant, new and additional, long-term funding. Service organisations within our sector are often funded to deal primarily with crises, with little to no funding directed at primary prevention. To ensure our sector can be a part of a whole-systems, holistic approach to addressing coercive control, we require funding directed at primary prevention work across workplaces, schools, and other community settings.

Additionally, more funding must be directed towards perpetrator services. Resourcing for Men's Behaviour Change Programs (MBCPs) should be increased to ensure programs have the capacity to implement risk assessment and management, including information sharing and working collaboratively to address perpetrators patterns of coercive and controlling behaviour. It also needs to expand to service rural and remote areas across South Australia where significant accessibility issues prevent men who use violence receiving a response in a timely manner.

Furthermore, funding for services that house the perpetrators of coercive control must increase and continue. Currently, South Australia is trialling a new perpetrator crisis accommodation pilot, where nine dedicated beds are now open for South Australian men who use violence. This initiative is promising but must be expanded to help support men impacted by coercive control legislation in the future. Additionally, such services are vital to ensure that adult and child victim-survivors can remain safe within their own homes during criminal proceedings.

Training

A considerable increase in training and professional development is required across all sectors. The South Australian Parliament should consider how such training will be approached when moving into the implementation phase of this legislation.

Scotland provides an important example of the challenges of legislating against coercive control. While the Scottish context differs in important ways, such as a much longer lead time between legislation and implementation than is currently being proposed in South Australia, Scotland offers important lessons. For instance, Scotland rolled out significant training to ready their criminal justice institutions to address the complex patterns of coercive control. Even so, Scotland is facing on-going challenges with appropriate enforcement of their legislation.

The following critical workforce capacity building components that are required to support a legislative response:

Clarity about defining the coercive control pattern and competency in attributing the pattern to the perpetrator (identifying, linking, and evidencing consistent behavioural patterns to an individual accused of a coercive control related charge).

Competency to engage victim-survivors will require explaining to the complainant what this pattern is; what it means in a criminal context in order to ascertain criminality; gathering the evidence; and presenting the evidence in court and cross examination on that evidence.

Specialist knowledge, interview skills to support gathering evidence, and professional confidence in the policing, judiciary, child protection, and correctional services contexts.

Training for all judges, magistrates, prosecutors and senior law officers that are involved in cases of domestic and family violence (including coercive control), noting countless examples of cases where comment from presiding judges has not been informed by evidence, best practice and an understanding of the nature of domestic and family violence.

Ensure the provision and access to expert specialist advice to support the definition and specialist evidence.

Judiciary roles and responsibilities will require foundational training in order to interpret the legislation.

Court experts need to have significant clinical front-line experience in working directly with men using family violence, and also be sufficiently trained in presenting within a Court setting.

Extensive investment in workforce capacity building across a range of contexts and fields to support principles that do not retraumatise victim-survivors and children/young people impacted.

Furthermore, the implementation phase of this legislation may offer significant opportunities to include and implement the recommendations of the Respect@Work Sexual Harassment National Inquiry report. The Respect@Work recommendations provide important guidance on the creation of safe, gender-equal and inclusive workplaces, and provide a useful tool in training centred around the prevention of and response to abusive behaviours in workplace settings. No to Violence endorses these recommendations and encourages their consideration during the planning stages of the implementation phase.

No to Violence has significant expertise in the delivery of professional development around working with men who use violence. This ranges from 'Everyday Conversations' which works with senior management, Human Resources and customer facing staff around what to do when you stop abusive and violent behaviour. No to Violence likewise delivers a Graduate Certificate in Client Assessment and Case Management (Men's Family Violence) in conjunction with Swinburne University. We are well placed to be part of workforce planning, and the implementation of training to support the implementation of any coercive control legislative changes.

By separating the passing of the bill and the implementation phase, the SA government has undoubtedly recognised that combating coercive violence requires whole-of-system change. Analysis of existing Scottish legislation by suggests:

"Legislative changes cannot on their own lead to improvements. Whatever laws we have will be only as effective as those who enforce, prosecute and apply them. Improving these practices – through education, training and embedding best practices and domestic abuse expertise – is likely to be more effective than the creation of new offences alone."⁷

Consequently, the training and education of all sectors must be viewed as a priority and not an afterthought when moving into implementation.

⁷ Burman, M and Brooks-Hay, O, 2018, "Aligning policy and law? The creation of a domestic abuse offence incorporating coercive control", *Criminology & criminal justice*, vol. 18, no. 3, pp.67-83.

Community Education

For the proposed amendments to successfully address coercive control as a criminal offence, attention and funding must be directed towards awareness raising and education in the wider community.

No to Violence has previously engaged with Scottish and English experts who suggested that while offences recorded by police are high, the number of convictions remains low. Experts who have tracked the implementation of coercive control legislation in Scotland and England have pointed to the lack of community understanding around coercive control as a possible hinderance to prosecution. Without widespread knowledge of coercive control patterns and what they look like, it is difficult for members of the community to provide the vital evidence required to secure a conviction.

Media attention is one significant way of helping the wider community have more awareness and understanding of coercive control. As has been noted by prominent commentators, there are examples of coercive control narratives in United Kingdom entertainment, including the soap opera 'Coronation Street', and the legal drama 'The Split'. This legislation has the possibility of shifting the cultural zeitgeist in South Australia.

Although an important part of culture change, simply increasing the visibility of coercive control through popular culture will not in itself will not be enough to educate the broader population.

No to Violence aligns with Embolden's recommendations under Priority Action Area 1 of their 2021 Positional Paper on Coercive Control and the Law in South Australia.⁸ We also call on the South Australian State government to commit to funding promoting and supporting community education and awareness of coercive control in the context of gender-based violence during this implementation phase, including primary prevention activities across settings such as education and care settings for children and young people; workplaces; health, family and community services; public spaces; and legal, justice and corrections contexts.

Question 9: Any other comments or feedback?

No to Violence strongly advocates that the creation of new offences should not be the first priority. Research from Scotland and England, some of the pioneers of coercive control criminalisation, have consistently highlighted that structural and societal reform is the foundation for movement that truly protects women and children. Legislative changes should only serve to support these reforms, rather than serve as the foundation of change.

No to Violence also encourages policy makers to recognise that criminalisation will not impact each community equally. There is inequity embedded across South Australian structures that may result in marginalised communities being disadvantaged by criminalisation of coercive control. Policy makers must consider the impact of formulating further offences on First Nation populations, who are already

⁸ Embolden, p.18.

more likely to be overpoliced and misidentified as the primary aggressor. This was a significant concern across participants in No to Violence's First Nations consultation on coercive control:

"An integrated, holistic and systematic response to coercive control will ensure that women, children, families- and men, are better shielded from family violence" – Participant.

'Police already can't identify with Domestic Violence legislation and already misidentify the primary aggressor. With coercive controlling violence legislation there will be increased incarceration for both men and women' – Participant.

'Criminalization is the white man way of things, rather teaching people the new way of doing things...parenting needs to be taught to heal the intergenerational trauma from colonialization and the Stolen Generation' – Participant.

'Racist institutions still impact men who feel frustrated and low because they can't get good jobs and use violence as a result. We need elders to understand coercive controlling violence and be good mentors to young men' – Participant.

Policy makers must consider the dearth of cultural inclusion in the phrasing of the proposed bill. Policy makers must ensure a proposed bill reflects the lived realities of victim-survivors from across all communities. No to Violence strongly supports the South Australian Government's initiative to engage in community consultations in phase two. No to Violence strongly advises that these consultations occur throughout all diverse communities and cohorts, across various geographical locations, within South Australia.

No to Violence strongly encourages the South Australian Government to consider structural and societal reform before criminalising coercive control behaviours. Criminalisation will not, in and of itself, prevent men from perpetrating coercive and controlling violence, nor will it protect women and children from coercive control.