

Friday 1 April 2022

By email

Policy and Community
Attorney General's Department
Email: agdpolicyandanalytics@sa.gov.au

Feedback on Discussion paper: Implementation considerations should coercive control be criminalised in South Australia

To Attorney General's Department,

Thank you for the opportunity to provide feedback on the discussion paper regarding implementation considerations should coercive control be criminalised in South Australia.

This feedback is being provided by the SA Rainbow Advocacy Alliance (SARAA), a community-run charity working to advocate, inform and educate for a LGBTIQA+ inclusive, healthy and safe South Australia.

We've prepared this feedback in consultation with our LGBTIQA+ Community Advisory Group, a diverse but collective voice for the LGBTIQA+ community in public policy and decision-making.

You can read our previous submission regarding the draft Criminal Law Consolidation (Abusive Behaviour) Amendment Bill 2021 [on our website](#).

1. What are the key messages that should be communicated about coercive control?

Make behaviours that constitute coercive control clear and explicit

Because coercive control arises from a gradual but continuous pattern of behavior, it can often be perceived or disguised as love or protection.

The control and manipulation which can accompany coercive control can be so underhand and gradual that it may wear down a victim's self worth so greatly that they never or may no longer recognize their treatment as abuse; just normal interactions that they may even believe they deserve.

It is therefore important that information is available for potential victims and perpetrators alike to allow them to examine and change their own behavior and beliefs.

As one member eloquently stated:

“Coercive control needs to be understood by what it takes away or how it makes you feel rather than by what it is or is not”.

Remove gendered language to increase likelihood of LGBTIQ+ communities reporting coercive control impacts

Our members are concerned that heavily gendered language in existing resources on coercive control, as with other forms of violence, may prevent people from coming forward about their experiences.

While existing statistics are overwhelmingly clear that women and girls are generally victims of domestic and family violence perpetrated by men, it is vital that men, transgender, non-binary and otherwise gender diverse people see themselves represented in any campaigns tackling this important issue and know they have safe services to attend when they need help. As one member stated:

“Women's Safety Hubs need to be renamed Safety Hubs where people of all genders feel safe to access services. I recognise that women are disproportionately affected, but so too are trans and gender diverse folk, and men in homosexual relationships and all people affected need to be able to access supports.”

Recognise that coercive control occurs in non-romantic relationships

Members feel it is crucial to address the variety of relationships in which coercive control can occur, beyond romantic relationships. This includes:

- in worker-client relationships - eg client and disability support worker or health professional
- between family members - eg children and parents or other guardians.

In the context of LGBTIQ+ communities, it's particularly important to highlight the potential for coercive control within one's family.

Members feel that under recognised forms of coercive control include a parent, guardian, or family member withholding consent for gender affirming surgeries or other procedures. This can significantly delay a trans or gender diverse person's social and/or medical condition, with potentially devastating impact on their mental wellbeing.

Similarly, family members or close friends may offer partial or conditional support of a person's LGBTIQ+ identity, for example by stating they will only love them if they don't discuss their identity publicly, or only provide housing, money, or other support if they retract their coming out.

Members also noted the need to address behaviours specific to LGBTIQ+ communities that constitute coercive control including:¹

- physical violence committed by a family member due to their homophobia and/or transphobia
- sexual violence, such as coercing a partner to have sex through manipulation of shame related to the victim's sexual orientation and/or gender identity
- humiliating or degrading a person because of their sexual orientation, gender identity, intersex variations or HIV status
- disclosing or threatening to disclose a person's sexuality, gender identity, intersex variations or HIV status to others without their consent, known as "outing"
- deliberately referring to someone by words or language that isn't affirming for them, such as using a former pronoun or gender identity, known as "misgendering"
- deliberately using the name a person was given at birth and known by before affirming their gender or coming out, known as "deadnaming"
- controlling how a person expresses their identity, including preventing a person from accessing gender affirming healthcare, controlling what a person wears or enforcing gender stereotypes
- a perpetrator telling a person that the police, justice system, or domestic and family violence support services aren't safe for LGBTIQ+ people and won't support the victim
- telling a person that they're not a real lesbian/ gay man / bisexual/ transgender person if they don't fit stereotypical ideals
- telling a partner they'll lose custody of children if they share their LGBTIQ+ status with others
- threatening to or withdrawing healthcare, for example gender affirming hormones, care relating to a person's HIV status
- family members withholding consent for or access to gender affirming hormones
- stopping a person from seeing their LGBTIQ+ friends
- preventing a person from participating in LGBTIQ+ specific peer support or community events that are often vital for young LGBTIQ+ people's mental wellbeing

¹ Commonwealth of Australia (2021), 'Inquiry into family, domestic and sexual violence', p187-189; Australian Law Reform Commission (2012) 'Family Violence and Commonwealth Laws - Improving Legal Frameworks'. Available at www.alrc.gov.au/publication/family-violence-and-commonwealth-laws-improving-legal-frameworks-alrc-report-117/.

- using a person's sexuality or gender identity as an excuse to be controlling.
- 2. What are the best mediums to communicate information about coercive control to your community?**

Mediums specific to LGBTIQ+ South Australians include:

- TikTok
- Grindr
- Image based platforms - eg Instagram
- Queer advocacy organisations like SARAA
- Queer bars and venues such as My Lover Cindi, Mary's Poppin, Diverse-City
- Community organisations like TransMasc SA, Drop in Care Centre, Queer Youth Drop In and Feast
- Health services like SHINE SA and SAME SH.

Members also expressed the need for accessible documents, noting that many LGBTIQ+ people are also disabled, people who speak English as a second language or have other literacy barriers.

When discussing online information options, members emphasized the importance of allowing people to access information safely; minimising the risk of retribution. This includes educating people about private and incognito browsing modes, and deleting browsing history. Members believe this should include a quick escape option for relevant websites which defaults to something other than a blank Google search page as this has become well known and may raise suspicion.

3. How is coercive control understood by you and more broadly within your community?

Generally speaking, our members are unfamiliar with the term 'coercive control' and were initially unsure of its scope. Once some definitions and examples were provided, the majority of members were able to share an experience from their life that could be considered coercive control.

The effect of using unfamiliar language is that both victims and perpetrators may not easily recognise that the behaviours they're experiencing or perpetrating constitute abuse. SARAA recommends that any messaging around coercive control includes clear examples, in plain language, of what this form of abuse entails.

One potential expanded definition of coercive control that came out of the meeting was the following:

“A version of abuse that relies on taking control of aspects of someone's life, and taking away their autonomy and consent. A pattern of behaviour where one person exerts

control over another. This may include financial and/or emotional abuse, social isolation, elder abuse, withholding medical services etc.”

4. If it were made an offence, what might this mean to you and the people around you?

LGBTIQA+ communities experience high rates of domestic and family violence, yet few report it.

Private Lives 3 (2020),² Australia’s largest national survey of the health and wellbeing of 6,835 LGBTIQ+ people found that:

- Around 4 in 10 participants reported ever being abused by a family member or intimate partner.
- 4 in 10 respondents who reported having ever experienced family or intimate partner violence felt they were targeted for this abuse because of their sexual orientation, gender identity and/or gender expression or intersex variation/s.
- 72% of LGBTIQA+ participants who reported having ever experienced family or intimate partner violence did not report the abusive behaviour.

Similarly, LGBTIQA+ communities are unlikely to report an offence of coercive control unless provided with culturally appropriate support and education that makes our communities:

- feel safe to make a report
- trust that they’ll be believed and won’t face homophobia by institutions they report to
- feel supported to access social service supports to manage any unintended consequences, for example housing, disability support
- trust that a report will be appropriately actioned.

We therefore strongly support the criminalisation of coercive control in South Australia, but know that LGBTIQA+ communities will need additional support in order for the legislation to be effectively utilised within our communities.

Our members reflected this sentiment, emphasising that the law will mean very little for LGBTIQ+ communities without culturally appropriate education and training of our communities.

As one of our members stated:

“If the education aspect was rolled out effectively, it would mean a lot of people who currently feel powerless to exit DV relationships might feel more empowered, and the perpetrators feel more threatened by possible legal action.”

² Hill, A. O., Bourne, A., McNair, R., Carman, M. & Lyons, A. (2020). *Private Lives 3: The health and wellbeing of LGBTIQ people in Australia*. ARCSHS Monograph Series No. 122. Melbourne, Australia: Australian Research Centre in Sex, Health and Society, La Trobe University. Available at www.latrobe.edu.au/arcschs/publications/private-lives/private-lives-3.

5. If you were concerned about the use of coercive control as an individual, or on behalf of someone else, what systems and services would you approach for support or advice?

Private Lives 3 (2020) found that 72% of participants who reported ever experiencing violence from an intimate partner or family member did not report the abusive behaviour.

Those that did were most likely to report the behaviour to a counselling service or psychologist and 89.4% felt supported in doing so.

It should be noted that many of the institutions that non-LGBTIQA+ people would report to are not safe for LGBTIQA+ people to access.

LGBTIQA+ South Australians have historically experienced, and continue to experience, higher rates of brutality, neglect, and other forms of mistreatment at the hands of police. This includes LGBTIQA+ people who were the victims of hate crimes, bashings and even alleged murder, where police turned a blind eye and sometimes were suspected to be the perpetrators of such actions. For these reasons LGBTIQA+ communities are highly unlikely to report coercive control to police.

Likewise many existing domestic and family violence services are heavily heteronormative, cisnormative (prioritising people who are heterosexual and not transgender or gender diverse) and gendered in nature, framing men as perpetrators and women as victims and failing to account for domestic and family violence experienced in same-sex couples and by transgender and gender diverse people. As a result, we know that LGBTIQA+ South Australians don't feel safe and supported to access domestic and family violence services.

As one member stated:

“I identify as a cisgender female, so I would feel comfortable approaching the local DFV service - I recognise that other people do not feel that safety or ability to approach supports.”

This is supported by *Private Lives 3 (2020)*³ which found that:

- 5.9% of participants reported abuse to the police, and only 45% of those that did felt supported
- 2.3% of participants reported abuse to a domestic or family violence service, and 65.1% of those that did felt supported.

³ Hill, A. O., Bourne, A., McNair, R., Carman, M. & Lyons, A. (2020). *Private Lives 3: The health and wellbeing of LGBTIQ people in Australia*. ARCSHS Monograph Series No. 122. Melbourne, Australia: Australian Research Centre in Sex, Health and Society, La Trobe University. Available at www.latrobe.edu.au/arcschs/publications/private-lives/private-lives-3.

Existing domestic and family violence services have a significant knowledge gap in relation to how best to support LGBTIQ+ people. Evidence to the Commonwealth Parliamentary Inquiry into family, domestic and sexual violence has stated that LGBTIQ+ domestic and family violence 'is a relatively uncommon area of expertise within health and social service settings' and that 'sexuality and gender diverse people are far less likely than the general population to find support services that meet their specific needs'.⁴

All services engaged in service provision should undergo LGBTIQ+ inclusion training, most notably training based on [Rainbow Tick](#), a national quality framework that helps health and human services organisations show that they are safe, inclusive and affirming services and employers for the LGBTIQ+ community.

Becoming Rainbow Tick accredited is a tangible and trusted way of demonstrating inclusivity to LGBTIQ+ communities. A self-audit tool is also available for organisations to do a preliminary assessment of areas they need to improve in. In South Australia, SHINE SA delivers [HOW2 LGBTIQ Inclusion Training](#), based on Rainbow Tick Accreditation.

It should also be noted that without appropriate services trained in LGBTIQ+ inclusion, our communities often turn to informal supports such as unfunded volunteer run peer support groups or friends who might be able to direct them to the right service.

This approach places significant burden on LGBTIQ+ communities who often have little or no training in responding to domestic and family violence and risks perpetuating vicarious trauma within queer communities. For more on the challenges of providing crisis services through peer support models see the [Australian Research Centre in Sex, Health and Society's Lean on Me report](#).

14. Is there anything else that should be considered as part of implementing a criminal offence relating to coercive control?

LGBTIQ+ people experience domestic and family violence at similar rates to cis-gendered heterosexual people, yet LGBTIQ+ people remain rarely seen in domestic and family violence data and statistics.

Majority of domestic and family violence surveys and data collection tools fail to properly collect data about sexuality and gender identity. This has a detrimental impact on LGBTIQ+ people experiencing domestic and family violence, making victims and survivors feel invisible, like they won't be supported, and that no one will believe them. These feelings translate into under-reporting of domestic and family violence by LGBTIQ+ people.

⁴ Commonwealth of Australia (2021), 'Inquiry into family, domestic and sexual violence', Parliament of Australia, p.186-189.

The South Australian Government's Department of Human Services recently published the 'Data Collection and Gender Guideline: Data collection and working with the LGBTIQ+ community'.⁵ This provides guidance to agencies on how to respectfully collect data about gender identity and sex in a manner inclusive of transgender and gender diverse people. We strongly urge the South Australian Government to implement this guideline across government, and particularly in relation to domestic and family violence.

We also note that developing guidelines for and collecting data about sexuality and gender as it relates to experiences of violence was recommended by the Commonwealth Parliamentary Inquiry into family, domestic and sexual violence.⁶

Conclusion

Thank you again for the opportunity to provide feedback on the discussion paper. We would be very happy to discuss these matters with you further.

If you wish to discuss these matters further, please contact Varo, SARAA Board Chair at chair@saraa.org.au.

We will also make this feedback publicly available to ensure our members and supporters are aware of our position.

Kind regards,

Kelly Vincent

they/ them or she/ her

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SARAA acknowledges and pays respects to the Kurna, Nukunu and Ngarrindjeri people, whose land we operate and live on. Aboriginal land was stolen, never ceded, and we stand in solidarity with First Nations people, especially those who are also members of the LGBTIQ+, Brotherboy and Sistergirl communities.

⁵ Department of Human Services, Government of South Australia (2021). 'Data Collection and Gender Guideline: Data collection and working with the LGBTIQ+ community' Available at <https://dhs.sa.gov.au/about-us/key-strategies-and-plans/data-collection-and-gender-guideline>.

⁶ Commonwealth of Australia (2021), 'Inquiry into family, domestic and sexual violence', Parliament of Australia, p.208-9. Available at www.aph.gov.au/Parliamentary_Business/Committees/House/Social_Policy_and_Legal_Affairs/Familyviolence/Report.