

NSW Government Response to NSW Joint Select Committee on Coercive Control

The NSW Government welcomes the report by the Joint Select Committee on Coercive Control.

We thank victim-survivors, frontline services, peak bodies, experts, academics and those in the criminal justice system for their important contributions to this eight-month inquiry.

Every person deserves to feel and be safe. That's why the NSW Government is supporting, in full, in part or in principle, 17 of the Committee's 23 recommendations. Six recommendations are noted as further careful consideration continues.

Coercive control is a form of domestic abuse that involves patterns of behaviour which have the cumulative effect of denying victim-survivors their autonomy and independence. This abuse can include physical, sexual, psychological or financial abuse.

This behaviour is unacceptable.

The NSW Government is acting to criminalise coercive control in intimate partner relationships and further strengthen our criminal justice system responses to abuse.

NSW law already recognises that domestic abuse extends beyond physical violence and may involve the exploitation of power imbalances and patterns of abuse over many years but there is more that can be done.

The evidence heard by the Committee illustrates that these are complex issues and that reasonable minds differ on whether creating a new offence or improving existing laws is the better approach. The Committee suggested six different legislative reforms which merit further investigation.

The NSW Government is committed to building on the Committee's work by developing and consulting on drafting for a stand-alone offence to address coercive control in current and former intimate partner settings, as well as possible amendments to other existing laws.

Any legislative reform must be approached with great care and caution to ensure it does not unintentionally put in further danger those in our community we are seeking to help. Great care and caution must also be taken to ensure the offence is calibrated appropriately to capture only conduct of the very serious standard deserving of criminal sanction, avoiding over-reach. It is noted that the Committee did not support interference in ordinary consensual relationships and noted that creation of a criminal offence should be carefully considered. The NSW Government aims to introduce a bill to the NSW Parliament in the 2022 Spring Session.

The NSW Government is continuing to investigate and invest in opportunities to improve system responses to domestic abuse.

Our response to domestic and family violence already includes significant investments across a range of areas, such as housing, crisis accommodation, counselling services, case management services, court advocacy, policing, education and health.

The 2021-22 Budget provided enhanced funding for this important work, including an extra \$60 million over two years to strengthen frontline domestic and sexual violence services across NSW. In October we announced an additional \$484.3 million - the single biggest investment in tackling domestic and family violence in the State's history.

We are investing \$10 million this financial year in Men's Behaviour Change Programs, including programs for culturally and linguistically diverse communities, LGBTIQ+ people, and Aboriginal communities.

In addition, the Committee proposed a range of systemic non-legislative reforms, a number of which are already underway. Prevention of coercive control must remain a priority.

A whole-of-government approach to reduce the number of victims and perpetrators of abuse is critical, and is already occurring, including through the work of the NSW Government's Domestic and Family Violence Delivery Board.

We recognise the importance of comprehensive and appropriate training on coercive control across our systems and community.

A public awareness campaign about coercive control will be developed and delivered in consultation with stakeholders, including with culturally and linguistically diverse and First Nations communities and organisations.

The Department of Education will review school programs about respectful relationships to ensure these include content about coercive and controlling behaviour.

Work is already underway to review and improve the Domestic Violence Safety Assessment Tool, and to deliver the NSW Police Force and Women's Domestic Violence Court Advocacy Programs co-location pilot program at five trial sites followed by formal evaluation. We will give additional consideration beyond the pilot to further co-location.

These commitments underscore the NSW Government's determination to tackle the scourge that is domestic abuse in our community.

For confidential advice, support and referrals, contact: 1800 RESPECT (1800 737 732), the NSW Domestic Violence Line (1800 65 64 63) or Men's Referral Service (1300 766 491).

Rec #	Recommendation	NSW Government Response
1	That the NSW Government should respond to the Domestic Violence Death Review Team evidence, by criminalising coercive control. However, commencement of a criminal offence should not occur without a considerable prior program of education, training and consultation with police, stakeholders and the frontline sector. Following drafting and legislation of such an offence, and prior to commencement, implementation should be assisted through a multiagency taskforce.	Supported
2	That the NSW Government should propose amendments to the <i>Crimes (Domestic and Personal Violence) Act 2007</i> to create a clear and accessible definition of domestic abuse, which includes coercive and controlling behaviour. This should be done as a priority, before criminalising coercive control.	Supported in principle
3	That the NSW Government should seek to increase the maximum penalty for contravening an apprehended violence order under the <i>Crimes (Domestic and Personal Violence) Act 2007</i> to better protect victims.	Noted
4	That the NSW Government should propose amendments to section 13(3) of the <i>Crimes (Domestic and Personal Violence) Act 2007</i> to provide that a person can be liable for stalking and intimidation if the person intends to cause, or is reckless as to whether their conduct causes, the other person to suffer physical or mental harm.	Noted
5	That the NSW Government should amend section 21A of the <i>Crimes (Sentencing Procedure) Act 1995</i> to include, as an aggravating factor in sentencing, that the offender was in an intimate personal relationship with the victim, and the offender previously engaged in coercive and controlling behaviour towards the victim.	Noted
6	That the NSW Government should advocate through the National Federation Reform Council for a nationally consistent definition of domestic abuse that includes coercive and controlling behaviour.	Noted

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7	That the NSW Government should advocate through the National Federation Reform Council for a national electronic database of domestic abuse orders, which includes provisional, interim, and final orders, and breaches of orders.	Noted
8	The Secretary of the Department of Communities and Justice should work together with a range of public bodies including NSW Police, Health, Education, Justice, Housing and Indigenous agencies to prevent domestic abuse, with the aim of reducing the numbers of victims and perpetrators of abuse. This represents a critical opportunity to implement an early intervention and public health-focused approach, rather than relying solely on traditional criminal justice levers, which only come into play in the aftermath of an offence.	Supported
9	That the NSW Government should run awareness campaigns about coercive control as a priority and regardless of whether or not a specific coercive control offence is legislated. This should include targeted campaigns developed with the Aboriginal and Torres Strait Islander community, culturally and linguistically diverse communities, the LGBTQ community, people with disability, and rural and remote communities.	Supported
10	That the NSW Government ensures that content about coercive and controlling behaviour is included in school programs about respectful relationships.	Supported
11	That the NSW Government gives consideration to improving resources for domestic abuse service providers and housing service providers so that victim survivors of coercive control have adequate support.	Supported The NSW Government will further consider.
12	That the NSW Government gives consideration to improving resources for women's domestic violence court advocacy services, including in rural and regional areas	Supported The NSW Government will further consider.

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13	That the NSW Government gives consideration to improving resources for behaviour change programs, including programs for culturally and linguistically diverse communities, the LGBTQ community and the Aboriginal and Torres Strait Islander community, and research into the efficacy of behaviour change programs in Australia and overseas.	Supported The NSW Government will further consider.
14	That the NSW Government gives consideration to a pilot of triage and referral hubs in regional and metropolitan NSW, which can be accessed in person or remotely by clients affected by domestic abuse.	Supported The NSW Government will further consider.
15	That the NSW Government gives consideration to adopting a Family Violence Multi-Agency Risk Assessment and Management Framework (MARAM) to ensure services are effectively identifying, assessing and managing family violence risk.	Supported The NSW Government will further consider.
16	That the NSW Government should co-locate domestic abuse services with police stations, and continue its pilot programs to better support police and better respond to victims of domestic abuse, including in rural and regional areas.	Supported in part
17	That the NSW Government should consult with stakeholders including domestic abuse service providers, the Aboriginal and Torres Strait Islander community, and NSW Police about how to better respond to the needs of domestic abuse victim survivors in rural and remote areas.	Supported
18	That the NSW Government should urgently update the Domestic Violence Safety Assessment Tool to improve risk assessment of victims experiencing coercive control.	Noted
19	That the NSW Government implements tailored training on identifying, recording and responding to coercive control for police officers, judicial officers and prosecutors, and workers in the domestic abuse, health care, housing, education and child protection sectors. The training should be repeated regularly.	Supported

Rec #	Recommendation	NSW Government Response
20	<p>That the NSW Government gives consideration to establishing an implementation taskforce to manage the introduction of a criminal offence of coercive control. The taskforce should consult with stakeholders including NSW Police, victim survivors, the domestic abuse sector, disability advocacy organisations, and representatives of culturally and linguistically diverse, Aboriginal and Torres Strait Islander and LGBTQ communities.</p>	<p>Supported The NSW Government will further consider.</p>
21	<p>That the NSW Government releases an exposure draft of legislation for a coercive control offence as a priority, with proposal of final legislation following further consultation through the implementation taskforce.</p>	<p>Supported</p>
22	<p>That in considering implementation of the coercive control offence, the taskforce should consult with stakeholders on how to optimise implementation via the following aspects of the offence:</p> <ul style="list-style-type: none"> • Education and training in relation to the elements of the offence. • Education and training of the judiciary and legal profession on jury directions to address domestic abuse. 	<p>Supported The NSW Government will further consider.</p>
23	<p>That in drafting a proposed criminal offence of coercive control, the NSW Government gives consideration to:</p> <ul style="list-style-type: none"> • What elements the offence should have. • Codifying common law principles on context and relationship evidence in legislation. • Legislating jury directions for domestic violence offences, or including suggested directions in a bench book. • Developing sentencing guidelines for domestic violence offences. • Amendments to victim impact statements. • The fact of victim survivor resistance (misidentification of aggressor/victim) 	<p>Supported The NSW Government will further consider.</p>