The Law Society
OF NEW SOUTH WALES

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28 August 2026

Mr Mark Follett
Executive Director
Policy, Reform and Legislation Branch
NSW Department of Communities and Justice

By email: [redacted]

Dear Mr Follett,

STATUTORY REVIEW OF COERCIVE CONTROL REFORM

The Law Society is grateful for the opportunity to provide feedback to the statutory review of Part 3, Division 6A of the *Crimes Act 1900* (NSW), which relates to the criminalisation of abusive behaviour towards intimate partners (**coercive control legislation**).

1. **At this point in the reform, are the policy objectives of the reform still valid?**

We note that the policy objectives of the coercive control legislation were to:

- strengthen the criminal justice response to non-physical forms of domestic abuse, recognising that domestic abuse is commonly experienced as connected patterns of both physical and non-physical behaviour;
- protect victim-survivors from that abuse and hold perpetrators to account;
- ensure the offence captures only conduct of the very serious standard that deserves criminal sanction and avoids overreach;
- prevent the misidentification of victim-survivors as perpetrators of coercive control; and
- raise public awareness about coercive control.[1]

We consider the policy objectives to remain valid. However, in our view, it is premature to assess whether the coercive control legislation has been effective in achieving these policy objectives, given the limited passage of time since the legislation was introduced and limited charging of the offence to date. Relevantly, between July 2024 and December 2025, 22 coercive control charges were laid.[2] As of 17 June 2026, court data shows that only four coercive control offences have been sentenced.[3] Our members advise that only two matters have proceeded to trial in the District Court and there has not yet been any appellate court consideration of the offence.

However, in our view, the limited charging of the offence, and resultant limited judicial consideration of the legislation, is not unexpected and does not warrant significant amendment to the offence at this stage. Given the

[1] Consultation Paper, p 9.
[2] Ibid, p 18.
[3] Ibid, p 17.

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offence involves establishing a "course of conduct",[4] requiring the offender to have engaged in behaviour repeatedly and/or continuously,[5] it is understandable that it may take some time for offenders to come to police attention and be charged. The limited number of charges may also be explained by the nature of coercive control and the likelihood that victims may not immediately realise they are victims and/or may need to wait until they are safe before they report the offence to police. For these reasons, we support continued monitoring of the offence and consider any significant amendment to the legislation to be premature.

2. **Are there any adverse impacts from the criminalisation of coercive control on First Nations people, Culturally and Linguistically Diverse (CALD) communities and LGBTQIA+ people which have not been identified by the current monitoring mechanisms?**

3. **Are there any adverse impacts on any other groups within the NSW community?**

We deal with the above two questions together. While few coercive control charges have been laid at this time, the Law Society remains concerned about the potential impact the coercive control legislation may have on Aboriginal and Torres Strait Islander people. We are concerned that, over time, there may be disproportionate criminalisation of Aboriginal people for coercive control, consistent with the over-representation of Aboriginal and Torres Strait Islander people as both victims and perpetrators of domestic violence more broadly.[6] The operation of coercive control legislation and its impact on Aboriginal and Torres Strait Islander people should continue to be monitored.

In this respect, we note that criminalisation of coercive control may not be the most effective or safest way of supporting Aboriginal victims of coercive control and their families. Aboriginal victims of coercive control may not feel safe or comfortable reporting coercive control to police for a range of reasons including historic and ongoing distrust of police, the risk that police may misidentify the victim as the perpetrator, concern that police attendance may escalate the situation and result in the use of force and/or violence by police, and fear that reporting coercive control or domestic violence may result in child protection involvement. The Law Society supports investment in wraparound, culturally-safe services for Aboriginal and Torres Strait Islander domestic violence victims and families, alongside community-led and -delivered early intervention prevention and behaviour change programs that might be targeted at men and boys given the gendered nature of this offence.[7]

In relation to the impact of coercive control on CALD communities, we note that BOCSAR's monitoring reports are unable to capture ethnic identities of victims or defendants of coercive control, other than Aboriginality.[8] We suggest that data in relation to ethnicity and language spoken be collected to enable more meaningful assessment of the impact of the coercive control legislation on CALD communities. We also support continued monitoring of the impact of coercive control legislation on the LGBTQIA+ community.

4. **Should the mental element of the coercive control offence be extended to include recklessness? If yes, should it be extended as recklessness in relation to coercion or control, recklessness in relation to causing mental and physical harm or recklessness in relation to another impact?**

The Law Society does not support extending the mental element of the coercive control offence to include recklessness.

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[4] *Crimes Act 1900* (NSW), s 54D.
[5] Ibid, s 54G(1).
[6] Australian Institute of Health and Welfare (2026), *Family, domestic and sexual violence: Aboriginal and Torres Strait Islander People,* available at: https://www.aihw.gov.au/family-domestic-and-sexual-violence/population-groups/aboriginal-and-torres-strait-islander-people.
[7] Consultation Paper, p 25 at 5.2.2.
[8] Consultation Paper, p 22.

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As noted in the Consultation Paper, an early draft of the offence included recklessness as a possible mental element.[9] Following extensive community and expert consultation, it was determined that the appropriate mental element for the offence was an "intention to coerce or control".[10] In the second reading speech, it was explained that intention was selected "to avoid overreach or over criminalisation" and to "minimise the risk of misidentifying the victim instead of the primary aggressor".[11]

It does not appear that there is any evidence to support a need for the *mens rea* to be lowered to include recklessness. As noted in our submission responding to the exposure draft of the Crimes Legislation Amendment (Coercive Control) Bill 2022, we consider the appropriate mental element to be that of intention.[12] The coercive control offence, in our view, should capture a calculated and persistent course of conduct that necessarily intends to coercively control a person. We remain of the view that recklessness is too low a threshold.

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

    a. **Which relationships should the offence be expanded to?**

    b. **If yes, are there any elements of the current offence which should be changed if applied to these other relationships?**

At this stage, the Law Society does not support expansion of the coercive control offence to relationships beyond current and former intimate partners. As noted in the Consultation Paper, in the second reading speech, it was emphasised that coercive and controlling behaviours are a known precursor for intimate partner homicide.[13] It was noted that '[t]here is a very strong evidence base of intimate partner domestic violence homicides being almost always linked with coercive control, and that evidence base at the moment does not exist for other relationships'.[14] Given this strong evidence base demonstrating the nexus between coercive control and intimate partner violence, we consider it appropriate that the offence is confined to current and former intimate relationships.

However, the Law Society acknowledges that there are other relationships in which coercive or controlling behaviour can cause real and significant harm, for example, between parents and children, between siblings, in carer or support worker relationships, in elder abuse and in cults.[15] Presently, we do not consider there to be a persuasive evidence base supporting the expansion of the coercive control offence to these contexts.

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[9] Ibid, p 23.
[10] Ibid.
[11] Ibid.
[12] The Law Society of NSW (2022) *Letter to Department of Communities and Justice – Exposure draft Crimes Legislation Amendment (Coercive Control) Bill 2022*, available here; https://www.lawsociety.com.au/sites/default/files/2022-09/Letter%20to%20Department%20of%20Communities%20and%20Justice%20%E2%80%93%20Exposure%20draft%20Crimes%20Legislation%20Amendment%20%28Coercive%20Control%29%20Bill%20%E2%80%93%2029%20August%202022.pdf.
[13] Consultation Paper, p 24.
[14] Ibid.
[15] In particular, we note the findings of the Victorian 'Inquiry into the recruitment methods and impacts of cults and organised fringe groups'. The Victorian Legislative Assembly Legal and Social Issues Committee found that coercive control is not limited to family and domestic relationships, and can occur in high-control groups: see Finding 25. While the Committee acknowledged that coercive control perpetrated in group settings shares similarities with the family violence context, it noted that group-based coercion often involves different dynamics, including collective enforcement, multiple or shifting perpetrators, and pseudo-familial relationships that fall outside current legal definitions of 'coercive control' (Victorian Report, at 121). While acknowledging the significant harm that can be caused by coercive control perpetrated in groups, the Committee determined that extending family violence legislation to address group-based coercion could result in legal ambiguity, increase the risk of misidentifying victims as perpetrators, and may dilute the focus, clarity and resourcing of family violence responses (Victorian Report, at 121-122). In our view, the findings of the Victorian Inquiry highlight the complexities of extending the coercive control legislation beyond the current policy settings of intimate partner violence.

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We are also concerned that expansion of the offence to other contexts might result in unintended consequences, especially where some level of control might be expected or appropriate in the relationship (for example, between parents and children). However, where the behaviour in these contexts is criminal, we suggest that existing criminal offences might be applicable, including intimidation under section 13(1) of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) (**CDPV Act**) or criminal neglect offences under sections 43A and 44 of the *Crimes Act 1900* (NSW).

6. **Are the penalty settings under the coercive control offence suited to the behaviours captured? If no, what should the maximum penalty be?**

The Law Society considers the maximum penalty of seven years imprisonment to be appropriate. In circumstances where only four sentences have been imposed for the coercive control offence to date, ranging from a Community Correction Order to imprisonment,[16] we consider it premature to alter the maximum penalty. Further sentencing data and judicial consideration of the offence may better guide future review of this question.

7. **Should the non-exhaustive lists of behaviours under section 54F(2) of the *Crimes Act* and section 6A(2) of the CPDV Act be aligned?**

Section 54F(2) of the *Crimes Act 1900* (NSW) provides a non-exhaustive list of behaviours that may constitute "abusive behaviour" for the purpose of the coercive control offence. Separately, the definition of "domestic abuse" under section 6A(1) of the CPDV Act refers to conduct that is violent or threatening, that coerces or controls, or that causes fear for safety or wellbeing. It is also supported by a non-exhaustive list of behaviours that may constitute domestic abuse in section 6A(2). While the lists are similar, they are not the same. The second reading speech made clear that the difference in examples given was intentional and considered:

> Where there are departures in the drafting between new section 54F and new section 6A, these have been deliberate because the legislative examples serve different purposes.
>
> A key distinction between the provisions is that the examples in new section 54F are provided for the purposes of substantiating an action element of a criminal indictable offence punishable by up to seven years' imprisonment. In contrast, the examples in new section 6A (2) are provided to identify offences in the context of a civil framework under which apprehended domestic violence orders are granted.[17]

While consistency in the law is typically preferable, we consider the different examples to be justified given their differing legislative contexts.

8. **Are any of the additional behaviours at 5.4.1 supported, or are there any further suggestions for behaviours to be recognised in the non-exhaustive list under section 54F?**

The Law Society suggests consideration should be given to explicitly recognising behaviour that is sexually abusive, coercive or violent as an example of "abusive behaviour" under section 54F(2) of the *Crimes Act 1900* (NSW).

We also support consideration of the NSW Deputy State Coroner's recommendation that the Attorney General consider amending the domestic abuse definition to include "behaviour that uses coercion, threats, physical abuse or emotional or psychological abuse to demand or receive dowry, either before or after a marriage".[18]

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[16] Ibid, p 17-18.
[17] New South Wales, Parliamentary Debates, Legislative Assembly, 12 October 2022, 9051 (Mark Speakman, Attorney General), https://www.parliament.nsw.gov.au/parliamentary-business/hansard/hansard-full-details?id=HANSARD-1323879322-127842&section=HANSARD-1323879322-127845.
[18] Inquest into the Death of Ms K (Deputy State Coroner Magistrate Elizabeth Ryan, Coroners Court of NSW, 12 December 2024) Recommendation 9.

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9. **Should any other reviewable provisions be amended or updated?**

We support continued monitoring of the operation of the coercive control legislation to ensure it is operating as intended and is fit for purpose. We do not suggest any other amendments to the legislation at this stage.

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 note that pursuant to section 54J(2)(j) of the *Crimes Act 1900* (NSW), the operation of section 6A of the CDPV Act must be reviewed to assess whether the definition of "domestic abuse" has had an impact on the education of the community about domestic abuse, and whether it has improved police practice in responding to domestic and family abuse. Given the limited passage of time since its commencement, we suggest it may be too soon to meaningfully assess the impact of the domestic abuse definition on community education and police practice. The Law Society supports continued investment in community education campaigns about domestic abuse, alongside targeted police education and training.

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Yours sincerely,



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President

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