

Understanding controlling or coercive behaviour

Controlling and Coercive behaviour became a criminal offence on the 29th December 2015.

The offence closes a gap in the law around patterns of controlling or coercive behaviour that occurs during a relationship between intimate partners, former partners who still live together or family members. This offence sends a clear message that this form of domestic abuse can constitute a serious offence particularly in light of the violation of trust it represents and will provide better protection to victims experiencing repeated or continuous abuse. It sets out the importance of recognising the harm caused by coercion or control, the cumulative impact on the victim and that a repeated pattern of abuse can be more injurious and harmful than a single incident of violence.

Controlling or coercive behaviour does not relate to a single incident, **it is a purposeful pattern of behaviour which takes place over time in order for one individual to exert power, control or coercion over another. This new offence focuses responsibility and accountability on the perpetrator who has chosen to carry out these behaviours.**

Types of behaviour

The types of behaviour associated with coercion or control may or may not constitute a criminal offence in their own right. It is important to remember that the presence of controlling or coercive behaviour does not mean that no other offence has been committed or cannot be charged. However, the perpetrator may limit space for action and exhibit a story of ownership and entitlement over the victim. Such behaviours might include:

- isolating a person from their friends and family;
- depriving them of their basic needs;
- monitoring their time;
- monitoring a person via online communication tools, using spyware. Intercepting messages/calls.
- taking control over aspects of their everyday life, such as where they can go, who they can see, being made to account for their time, what to wear and when they can sleep;
- extreme jealousy - "If I can't have you, no one can"
- depriving them of access to support services, such as specialist support or medical services;
- repeatedly putting them down such as telling them they are worthless;
- enforcing rules and activity which humiliate, degrade or dehumanise the victim;
- forcing the victim to take part in criminal activity such as shoplifting, neglect or abuse of children to encourage self-blame.
- financial abuse including control of finances, such as only allowing a person a punitive allowance;
- threats to hurt or kill (suicide/homicide/familicide)
- threats to a child;
- threats to reveal or publish private information (e.g. threatening to 'out' someone).
- assault;
- damage to property (such as destruction of household goods and injury to pets);
- rape;
- preventing a person from having access to transport or from working.
- manipulation of information given to professionals.

This is not an exhaustive list (refer to Domestic abuse traits insert and self-assessment questionnaire).



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Key Elements of the Offence

For the offence to apply:

- The controlling or coercive behaviour must take place "repeatedly or continuously". Continuously means on an ongoing basis (at least two occasions). This could mean, but is not limited to, actions which cause the victim to change their way of living. However, each case must be considered on an individual basis, there is no set number of incidents in which controlling or coercive behaviour has been displayed which must be proved. As much evidence as possible must be gathered to show that the behaviour is of a repetitive or continuous nature.
- The pattern of behaviour has to have a "serious effect" on the victim- this means that they have been caused to EITHER fear that violence will be used against them on "at least two occasions", OR they have been caused serious alarm or distress which has a substantial adverse effect on the victim's usual day-to-day activities, this will usually require there to have been more than one incident. The offence does not state that the victim must fear violence that may be committed by the perpetrator only. For example, the victim may fear that the perpetrator has asked another person to commit violence against them.
- The behaviour must be such that the perpetrator knows or "ought to know" that it will have a serious effect on the victim. "Ought to know" means that which a reasonable person in possession of the same information would know.
- The perpetrator and victim have to be personally connected when the incidents took place- meaning that at the time the incidents took place they were in an intimate personal relationship (whether they lived together or not) or they lived together and were family members, or they lived together and had previously been in an intimate personal relationship. It is not necessary for the perpetrator and victim to still be cohabiting or in a relationship when the offence is reported as long as the incidents took place when they were "personally connected", and after the offence came into force (29th December 2015). Previous incidents/behaviour can be introduced as "bad character" evidence.



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Stalking and Harassment

Case law suggests that the current law on stalking and harassment does not apply to controlling or coercive behaviour that takes place in an ongoing intimate relationship. The offence of controlling or coercive behaviour closes this gap in the law as it can take place in an ongoing relationship. There may be cases where the victim and perpetrator are no longer living together or in a relationship, and the perpetrator is still attempting to exert control over the victim, for example, by stalking or monitoring the victim, or threatening or intimidating them. In such cases stalking and harassment legislation should be used.

Other considerations

It is important to consider how any additional needs and barriers may affect the ability and willingness of the individual victims to recognise or report abusive behaviour. Perpetrators may try to exploit such vulnerabilities in order to maintain control, or try to prevent the victim from seeking help. Examples may include:

- Impairment (physical disability, mental health, learning difficulties etc)
- Ethnicity
- Immigration Status
- Fear of losing the children
- Financial abuse
- Drugs and alcohol
- Lesbian, gay, bisexual & transgender (LGB&T) individuals in relationships
- Forced Marriage
- "So called" "Honour Based" violence/abuse (HBV)
- Age
- Adolescent to parent violence and abuse (APVA)

*not an exhaustive list

The Home Office Statutory guidance on Controlling and Coercive behaviour in intimate and family relationships can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/482528/Controlling_or_coercive_behaviour_-_statutory_guidance.pdf

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