Discussion paper: Criminalising coercive control in South Australia

Introduction

We are seeking your expertise and views about how legislating against coercive control in South Australia will impact the LGBTIQA+ community and how we can most effectively support the LGBTIQA+ community in this space. This paper provides a brief overview of the research and the key issues raised through previous consultation with South Australian stakeholders about the proposed legislation over 2022.

Terminology statement

Throughout this document, the LGBTIQA+ acronym is used to refer to people with diverse sexual orientations, gender identities or sex characteristics. The Department of Human Services acknowledges that not all LGBTIQA+ people identify as lesbian, gay, bisexual, transgender, intersex, queer, asexual, agender or aromantic. It is acknowledged that some people use other terminology, and these identities are recognised as being included with the 'plus' symbol in the acronym.

Throughout the document women are referred to as being the primary victims of family and domestic violence, and men the majority of perpetrators. This is not meant to suggest that people from the LGBTIQA+ community are not victims of domestic violence at a similar rate, or an increased rate, to that of cis women.

Seeking your input

In order for legislation to be effective, targeted information and education campaigns must be undertaken to reach specific groups. A set of questions is included in this discussion paper for you to consider in your thinking and views on this topic.

Please be aware that the content in this document may be distressing or raise issues of concern for some readers. There are a range of services available if you require support after reading this paper. Lifeline provide 24/7 crisis support and can be contacted on 131 114. Beyond Blue also provide support services and can be contacted on 1300 224 636. Confidential information, counselling and support services can also be accessed through 1800RESPECT. QLife's phone service is available from 3pm to midnight every day, on 1800 184 524 or visit qlife.org.au.

What is coercive control?

Coercive control, as a broad definition, refers to an ongoing pattern of controlling and coercive behaviours that may include physical, sexual, psychological, financial and/or emotional abuse and intimidation. It is not a single act of violence, but a broader pattern of abusive behaviours used to dominate and control a person over time. Anybody can be a victim of family and domestic violence, and anyone can be a perpetrator. The vast majority of victims are women, and most perpetrators are men – this is particularly so in relation to coercive control. Perpetrators use tactics such as isolating the victim-survivor from their friends and family, tracking their movements, and controlling their access to money, where they go and what they wear, who they speak to, and whether they work.

For the LGBTIQA+ community, coercive control might look like excessive jealousy, repeated criticism and sexual coercion. If your partner is checking your phone, constantly tracking your whereabouts, getting upset when you spend time away from them, or often turning up unannounced to surprise you, you may be experiencing coercively control. Other examples might look like your partner publicly humiliating or belittling you then claiming it's a 'joke', being pressured to do things sexually that you are not comfortable with or being pressured into sending nude pictures or videos.

Technology facilitated abuse may also be more relevant for young LGBTIQA+ people, which might look like demanding access to a person's phone and social media accounts, restricting who a partner can be 'friends' with, what kinds of photos they can post, tracking their locations, reading private messages, and – particularly after relationships end – setting up fake profiles to continue to monitor their movements and activity. Accessing a partner's social media is increasingly normalised amongst young people today, making it difficult to recognise or call it out as abusive behaviour. Youth workers in Tasmania expressed concern that they were seeing boys aged 13 – 14 exhibiting behaviours such as forcing their girlfriends to hand over their devices, demanding to know who they were messaging, and threatening to smash their phones.

If you do not feel safe and comfortable in your relationship, if you feel that you are 'going crazy' or feel confused and afraid, then it is abuse – not love.

Fundamentally, coercive control is about power, and the motivator is for a perpetrator to gain power and control and exert dominance over a victim-survivor. Coercive control can have a devastating impact on a victim's identity, their physical health and social and emotional wellbeing, and their connection with friends, family and culture.

We know that coercive controlling behaviours, and subsequent systemic responses, differ across age cohorts, Aboriginal and Torres Strait Islander Peoples, culturally and linguistically diverse (CALD) communities, women with disability and the LGBTIQA+ community. Controlling and coercive behaviours also differ significantly within individual relationships – but the common thread is that perpetrators are overwhelmingly men.

The purpose of this discussion is to ensure that information and education campaigns are not heteronormative, and that people from all cultures, backgrounds, ages, gender identities and sexual orientations can see themselves in the behaviours described or

depicted. It is acknowledged that the majority of family and domestic violence material is heteronormative. The reasons for this are multiple and complex – feminism is the predominant lens through which family and domestic violence is understood, and gendered violence is explained as resulting from patriarchal social structures, rigid gender norms and gender inequality. However, what is useful about the term coercive control is that it highlights the often-invisible forms of intimate partner abuse that are emotional, not physical and therefore thought of as less gendered.

Why is South Australia legislating to criminalise coercive control?

Currently coercive control is not a specific criminal offence in South Australia. There are strong reasons to criminalise coercive control.

Firstly, it is important to note that **coercive control can predict future intimate partner homicide.** According to research by the NSW Domestic Violence Death Review Team, coercive controlling behaviours were a feature in 99% of domestic homicides in Australia between June 2008 and July 2016 – meaning out of 112 incidents of intimate partner homicide, coercive control was a feature of every relationship except one. A number of these cases did not have any evident history of physical violence. According to Our Watch, in Australia on average one woman per week is murdered by her current or former partner. Homicide can often be the first act of physical violence in this type of abusive relationship, which is why it is so important that everyone recognises coercive control for what it is – a particularly insidious, highly dangerous form of family and domestic violence.

Secondly, and very much related to the point above, as highlighted by Women's Safety NSW it is important to recognise the gravity of this behaviour in the eyes of the law. **Legislating against coercive control in South Australia is a way to improve the legal system's response to all forms of family and domestic violence.** The South Australian Government wants the law to accurately reflect the experiences of victim-survivors and hold perpetrators accountable for the abuse they inflict on their partners. This includes a commitment to inclusive, culturally safe and responsive implementation to protect victim-survivors who come forward. Legislation will assist the justice system to meet community expectations in this respect and enable the prosecution of perpetrators. It will also give police the ability to intervene and stop offenders using criminal charges, without needing to wait for abuse to escalate into physical violence. **Criminalising coercive control will affirm community understanding that it is unacceptable behaviour.**

Media and awareness raising

We know that young people are aware of family and domestic violence campaigns in mainstream and social media. A strong example is the Australian Government's 'Stop it at the Start' campaign, which demonstrated the impact of social attitudes, stereotypes and gender inequality as it relates to domestic and family violence for young people.

To prevent coercive control and family and domestic violence more broadly a substantial ongoing commitment is needed to address gendered drivers of family and domestic violence – this is called 'primary prevention'. This involves changing the social attitudes, structures and conditions that can influence a person's use of coercive control or enable the community to excuse this behaviour. This includes gender inequality and other forms of

inequality and discrimination. Examples of primary prevention initiatives include education programs on respectful relationships and consent to improve understanding of the gendered drivers of violence and enable early identification of these behaviours. Evidence-based primary prevention initiatives are needed to stop coercive control before it starts.

What does the research tell us?

There is currently limited research into family and domestic violence within the LGBTIQA+ community generally, and coercive control more specifically. The Australian Bureau of Statistics Personal Safety Survey (2013) did not collect data on LGBTIQA+ identity and the research focuses more on intimate partner violence (IPV) more broadly.

Prevalence of intimate partner violence in LGBTIQA+ relationships

Evidence presented to the Victorian Royal Commission into Family Violence suggests that IPV is as prevalent in LGBTIQA+ communities as it is in the general population, but it is much less likely to be reported for reasons such as a lack of appropriate services and supports. Approximately one-third of LGBTIQA+ people in Victoria have experienced intimate partner abuse, but only 20% of these cases are reported to police or services.

There is a recent and growing body of research that shows higher levels of IPV, sexual violence and family violence among LGBTIQA+ people. This research indicates higher rates of violence for bisexual women compared to lesbian or heterosexual women, and for trans and gender-diverse people compared to cisgender people. The Victorian Population Health study found that LGBTIQA+ people experience sexual violence at seven times the rate of non LGBTIQA+ people, with even higher rates for trans or gender-diverse respondents to the survey.

According to the Royal Australian College of General Practitioners as well, LGBTIQA+ people experience family violence at higher rates than non-LGBTIQA+ Australians, in the form of both domestic violence, or IPV, and violence in their families of origin. This rate is even higher amongst LGBTIQA+ Australians who also identify as Aboriginal or Torres Strait Islander, are from a non-English speaking background or are living with disability.

LGBTIQA+ people also experience 'minority stress' - additionally high levels of stress faced by members of minority groups. Examples include internalised homophobia, experiences of LGBTIQA+ based discrimination and higher rates of traumatic events throughout their lifetime.

In the formative coercive control research of Evan Stark, *How Men Entrap Women in Personal Life*, Stark interrogates the findings of the American National Violence Against Women Survey, which was the first population-based study in the US that attempted to separate victims of IPV who identified as lesbian. Of the women who identified as lesbian in the survey, 11.4% reported abuse by female partners over their lifetime – slightly more than half of heterosexual women who reported violence (20.3%).

Stark is careful to point out that lesbian women experience gender discrimination in addition to inequality, heterosexism and homophobia and that their abusers are exploiting those disadvantages they experience because of their sex, the expectations associated with their gender and discrimination based on their sexual orientation.

Questions

1. In addition to the definition described above, are there other ways that coercive control can be used specifically in LGBTIQA+ relationships?
2. Do you consider FDV to be a prevalent issue within the LGBTIQA+ community?
3. Through your experiences, how are non-physical forms of violence understood, recognised and openly discussed as a form of FDV?

Additional risk factors for family violence

While members of the LGBTIQA+ community experience the same forms of FDV as people who do not identify as LGBTIQA+, they also experience very specific forms of FDV that target their gender identity, sexual orientation or intersex status. Some examples provided by Victorian Better Health include:

- Isolation from the wider LGBTIQA+ community
- Preventing a person from accessing gender affirming hormones or treatments for HIV or other chronic illnesses
- Making the person believe that mainstream services are homophobic and that nobody will help them
- Instilling the belief that the victim-survivor 'deserves' the abuse
- Portraying the violence as 'masculinity'
- Pressuring, forcing or tricking a person into having unsafe sex.

Additional barriers for victim-survivors seeking justice

There are significant barriers to accessing support for people from the LGBTIQA+ community who are experiencing FDV. This can include a fear of not being believed, or not being taken seriously by mainstream service systems that typically focus on heterosexual relationships and female victims/male perpetrators. Other barriers include perpetration of myths that lesbian women are not violent towards each other, or that violence in gay male relationships isn't as serious as violence within heterosexual relationships. Mainstream services can also be ignorant to the specific ways a perpetrator in an LGBTIQA+ relationship can target, control and abuse their victim – for example, through outing or threatening to 'out' them. A 2003 study on LGBTIQA+ survivors of IPV demonstrated that some lesbian abusers had presented to services, support groups and shelters as victims, with the dual purpose of preventing their partners from accessing those services, and to further continue their abuse through those systems.

Better Health Victoria also lists some barriers to obtaining services and support, such as self-blame, fear of discrimination, feelings of being unheard or unseen and fear that they will be outed if they report the abuse.

Research consistently points to the need for LGBTIQA+ specific, or friendly, FDV services and that many mainstream service providers do not provide appropriate support or a positive experience for many LGBTIQA+ people.

According to the Royal Australian College of General Practitioners, primary care settings are an important location for the identification of LGBTIQA+ IPV, family violence and a vital source of support and referral to inclusive services.

There are concerns that the criminalisation of coercive control could increase barriers for people who are already disadvantaged in accessing and navigating justice systems. The burden of proof required in court proceedings requires substantial involvement – both financial and emotional – from a victim-survivor. However, criminalisation will also inform the understanding of what constitutes FDV and validate the experiences of victim-survivors.

4. What do you view as the barriers to obtaining services and support for people within LGBTIQA+ communities within a South Australian context? Do these barriers differ for different groups within the community (i.e., age, gender and sex, people living in regional areas)?

5. What can mainstream services do to make themselves more accessible to the LGBTIQA+ community? Are there any examples you can think of?
   What would improve peoples' experience with frontline service providers and respondents including the police?

6. What are effective communication channels to provide information about services?

7. Do you think there are different or additional barriers for people within the LGBTIQA+ community experiencing coercive control specifically?

8. What improvements can services make to ensure better responses for victim-survivors of coercive control?

Your contribution

What we know is that in order for legislation to be effective, targeted information and education campaigns must be undertaken to reach specific groups, such as women from LGBTIQA+ communities. This process must also involve extensive education and training for first responders, police and the justice system, to understand the nuanced issues experienced by   peoples and their communities. We must ensure that responses to coercive control is equitable, appropriate and effective.

Your input into this process is highly valued and greatly appreciated.

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