

Understanding and responding to coercive control

Women's Legal Service Queensland

Final report

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Executive Summary

This research was commissioned by Women’s Legal Service Queensland in partnership with North Queensland Women’s Legal Service and undertaken by Clarity Consortium. The primary research aims were:

1. To better understand the prevalence of coercive control clients of Women’s Legal Service Queensland and North Queensland Women’s Legal Service;
2. To learn from Queensland women with lived experience of coercive control, including those who have been misidentified as the respondent, about what legal centres can do to safely elicit full disclosure and understanding of their circumstances; support them through the court process; and link women to support services to build self-efficacy and address non-legal problems; and
3. To contribute to public policy discussion in Queensland by better understanding the prevalence and nature of coercive control in Queensland, and learning from the literature, subject matter experts and survivors what the implications may be for community legal centre demand and practice.

We used a mixed methods approach (detailed in Appendix 1) encompassing a targeted, rapid literature review by the UQ Pro Bono Centre and supplemented by the research team; data collection by the two Women’s Legal Services; 18 interviews with subject matter experts; and 15 interviews with survivors of coercive control. The research was guided by a reference group comprising expert domestic and family violence practitioners and lawyers and an ethical research plan.

Our research findings are presented in six parts.

1. What is coercive control?

Coercive control, also referred to as intimate terrorism, is a pattern of behaviour aimed at controlling and dominating another person. Whilst it is typically perpetrated by men against women in intimate partner relationships, it can be present in other family or extended family relationships. Definitions of coercive control in the literature and in legislation emphasise the persistent, ongoing nature of the abuse (a course of conduct) which has the effect of victim-survivors being entrapped and isolated. Coercive control causes serious harm to women and their children and is a risk factor for intimate partner homicide.

Perpetrator coercive controlling behaviours described by survivors were consistent with the literature, and featured a co-occurrence of physical and/or sexual violence or coercion, or threats of the same, as well as legal systems abuse.

The survivors we interviewed described ongoing patterns of controlling behaviour and strikingly similar impacts of the abuse, despite their diverse backgrounds, ages and circumstances. Recommendation 1 is based on this finding together with the advice of subject matter experts.

Recommendation 1

During initial conversations with clients, legal practitioners should ask clients a question that inquires about the *impact* of the behaviours (sample questions provided in a text box on page 21) as clients may find this easier to articulate than specific abusive behaviours, particularly where gaslighting is occurring.

2. What is the prevalence of coercive control and how should it be identified?

The prevalence of coercive control identified amongst clients accessing the two Women's Legal Services in August 2021 was 51% (Women's Legal Service Queensland) and 38% (North Queensland Women's Legal Service). This is believed to be a significant underestimate.

Two Australian studies suggest that up to one in four women in the general population experience coercive control in a cohabitating relationship, and one study identified significant overrepresentation of First Nations women, women who spoke a language other than English at home, and women with long term health conditions that reduced their ability to undertake day to day activities.

We were unable to identify fit-for-purpose coercive control screening or risk assessment tools that legal centres could use 'off the shelf' to identify coercive control or collect prevalence data. Systematic reviews have found there is equivocal evidence about the benefits of universal screening for domestic and family violence in health care settings. We therefore did not feel able to recommend implementation of universal screening or data collection tools. On this basis, we recommend two modest next steps to equip lawyers to identify coercive control and obtain better prevalence data across the community legal sector.

Recommendation 2

Community and specialist legal centres make best efforts to collect data about the prevalence of clients experiencing coercive control to inform intake and triage decisions, service planning and funding advocacy. We recommend this data be recorded by legal centre staff, entered into CLASS and obtained using a 'light touch' approach as detailed on page 26.

Recommendation 3

The existing and future legal workforce be trained to identify the signs of coercive control, pursue sensitive inquiry and respond appropriately to disclosures, underpinned by trauma-informed and culturally safe practice (further recommendations about training are detailed in Part 5).

3. How can community legal centres best support women experiencing coercive control?

Part 3 of this report distils what we learned from the 15 survivor interviews and reports these findings in two themes:

- Theme 1: Insights that could inform community legal centre practice, including what women valued in the existing system and what could be better
- Theme 2: The significant impact of police responses, both positive and negative, including the response to breaches of Domestic Violence Orders

Insights to inform community legal centre practice

A strong theme which emerged in the survivor interviews was the value of the two Women’s Legal Services and the cooperative and coordinated efforts between the legal services, specialist domestic and family violence services and others including hospital and health care professionals. The survivor stories provide rich insights about how women first identified they were experiencing coercive control, how they sought help, from whom, what legal outcomes they pursued and the resulting outcomes. Survivor insights also suggest *how* lawyers could best work with women, such as providing kindness and care, in addition to *what* lawyers might do by way of providing legal assistance. The recommendations draw on survivor stories and aim to build on the strengths and expertise within the service system.

Recommendation 5 – Community and women’s legal services adopt the following approaches to improve responses to women experiencing coercive control (if not already doing so)

- Provide information about coercive control and available services to plant a seed and assist women to identify if they may be experiencing coercive control – information should be in plain English and Easy English to maximise accessibility.
- Consider the CARE model developed for use in health care settings, with the addition of trauma-informed and culturally safe practice, as a helpful framework for how to work with women experiencing coercive control, and note the value of having female staff and a safe and discrete location.
- Provide realistic advice about the challenges of, and long haul involved in, navigating multiple legal matters and courts, but provide this frank advice incrementally to avoid deterring women from leaving an abusive situation and pursuing their rights.
- To the extent possible, provide coordinated and ongoing support to navigate multiple legal matters, recognising the long-term harm and exhaustion of being subject to coercive control, including through legal systems, and the victim-reliant nature of the justice system.
- Maximise the preventative and early intervention value of duty lawyers – duty lawyers should make best efforts to: proactively make themselves known to women who may not know ‘who’s who’ in the courtroom; provide warm referrals to other services and supports; and, for women at high risk (e.g. misidentified as a respondent), seek to schedule future matters on days that will allow continuity of duty lawyer support.

Recommendation 5 (cont.)

- Prioritise warm referrals and coordinated supports for women experiencing coercive control, even where women have high levels of capability or are on high incomes/are asset rich. This recognises that coercive control is a significant risk factor, and the debilitating harm and exhaustion it causes.
- Pursue community legal education to equip bystanders, allies, family and friends and to ensure non-legal services that support women with legal matters, particularly applications for protection orders, do so accurately.

Recommendation 6

The two Women's Legal Services develop tips for collecting evidence safely and alerting women to the fact this may only bear fruit over a longer time period, to be distributed as a resource across the community legal sector.

Recommendation 7 - for governments considering service system improvements

Improving legal assistance for women experiencing coercive control needs to recognise the complex multiple legal pathways most women need to navigate to pursue safety for themselves and their children (e.g. domestic and family violence law, family law, property and financial settlements, potentially also child protection or criminal matters). Responses also need to recognise that legal systems themselves are being used as tools of ongoing coercive control even after separation. Meeting this need requires adequate resourcing for community legal centres, specialist legal services and Legal Aid to be able to provide more holistic and coordinated legal assistance. This includes recognising the time needed in legal appointments to hear women's stories and understand the complexities of their situation.

Theme 2: The significant impact of police responses, both positive and negative, including the response to breaches of Domestic Violence Orders

Whilst policing approaches are not explicitly within the remit of this research, they are inextricable from the work of community legal centres because negative policing responses can have downstream legal consequences for women. Amongst the 15 women we interviewed, experiences with police were mixed – some were very positive and in ways that afforded women safety and freedom, but some were extremely negative and with severe consequences. This was most notable where women were misidentified by police as the respondent.

Three women had been misidentified by police - two on an initial call out and one being pressured by a police prosecutor to agree to be named as the respondent on a cross-order, despite being identified initially by police as the aggrieved. In each case, misidentification had lasting and devastating consequences, including avoiding further help-seeking and enduring more violence, criminal charges for breaches of the order and loss of career and income. All three women who were misidentified by police had experienced severe physical and/or sexual violence – two including non-fatal strangulation which could potentially have given rise to criminal charges against the perpetrator.

Two women's experiences also offer insight into how police and protection orders can be used by perpetrators to perpetuate coercive control. Women valued being supported by the two Women's Legal Services to report breaches of protection orders to the police. Those that did not receive support reported they had difficulty getting police to take the reports seriously – particularly for women who were experiencing more subtle forms of controlling and harassing behaviour. These experiences inform the recommendations below.

Recommendation 8 - Community and women's legal centres adopt the following approaches to reduce risks for women experiencing coercive control (if not already doing so)

- Prioritise legal assistance for women who have been misidentified as the respondent to reduce the serious consequences arising from misidentification.
- Ensure all information resources and advice about protection orders alert women to the high risk of agreeing to be named as a respondent on a cross-order, and how women can get help if they find themselves under pressure to agree to this.

Recommendation 9

The two Women's Legal Services develop tips for reporting breaches of protection orders to the police, including how to document more subtle controlling behaviours, what to do if police do not take the reports seriously, explaining the cumulative and escalating justice system response to breaches and alerting women to the high risk of agreeing to be named on a cross-order and how women can get help if they find themselves under pressure to agree to this.

4. How community legal centres support can diverse client cohorts

Subject matter expert and survivor interviews informed the development of a range of suggestions to respond to the diverse needs of First Nations women, women from culturally and linguistically diverse backgrounds, women with disability, older women and LGBTIQ clients. These suggestions are tailored to each client group and can't be synthesised easily into an overview. However, we will work with the two Women's Legal Services to incorporate these suggestions into a fact sheet for community legal centres as a subsequent output of this project.

5. Suggestions for training

We recommend training for lawyers across the legal sector, recognising that community legal centres are just one, albeit important, part of the legal assistance sector. All elements have a part to play in supporting clients affected by coercive control, whether lawyers are working in private practice, Legal Aid, community or specialist legal centres. Our recommendations offer suggestions for further consultation and testing and note possible content and methods for training.

We note that training for lawyers and undergraduate law students has been previously recommended in the *Not Now, Not Ever* report and efforts to date could be further built upon. Given the prevalence of coercive control amongst the general population, and its interplay with family

dynamics and legal matters, we conclude that training should be offered for undergraduate law students and practising lawyers and encompass:

- basic skills in recognising, responding and referring appropriately if a client makes a disclosure of coercive control; and
- technical skills in providing appropriate legal assistance, including understanding how the dynamics of coercive control can impact on legal matters and the complex intersection of domestic and family violence, family, criminal and children’s court matters.

We also note that training for police and magistrates is recommended repeatedly in the literature and in numerous inquiries and reviews across Australia, and the need for this was underscored by expert interviews and some of the survivor stories presented in this report.

Recommendation 10

That the two Women’s Legal Services work with relevant universities, peak and professional bodies to investigate and develop training for undergraduate law students and practicing lawyers in line with the suggestions identified in this research.

Recommendation 11 – for government

Note that this research, particularly the survivor stories outlined in Part 3 of this report, further validates previous recommendations from the literature and various inquiries and reviews, for training for police and magistrates.

6. What are the implications of criminalising coercive control?

This research does not provide a view nor recommendations on whether coercive control should be criminalised. That is a subject for public debate and is the explicit remit of the Women’s Safety and Justice Taskforce. However, we do identify some of the potential implications of criminalising coercive control for community legal centres and the wider justice system, based on subject matter expert and survivor interviews.

First, the literature and overseas experience highlight the importance of long lead times and training across professions before enacting an offence of coercive control.

Second, although a research aim, we were unable to gather data about demand for community legal assistance in the United Kingdom as a result of introducing an offence of coercive control. However, we note there has been minimal impact in Tasmania because so few charges have been laid. In theory, impact for community legal centres should be minimal as police would prosecute the case.

Third however, a major concern associated with criminalising coercive control is the risk that women may be misidentified as the primary aggressor. The misidentification of women in civil protection orders is already an issue in Queensland, but the implications could become more serious if women face criminal charges erroneously. This could also increase demand for legal assistance to defend

criminal charges (noting that neither of the two Women’s Legal Services currently has a criminal law practice).

Notably however, concerns about misidentification of women as the primary aggressor were shared in the United Kingdom and Tasmania but have not eventuated. Subject matter experts speculate that this is due to the offence being created as a pattern of conduct, thereby reducing the risk of misidentification arising from one-off incidents of self-defence or retaliatory violence.

We asked survivors about the likelihood of whether they would want to pursue the criminal pathway and heard mixed views, suggesting it will be important to respect women’s preferences in this regard.

Given the different experiences of coercive control that may be experienced by First Nations people, people from culturally and linguistically diverse backgrounds, older women, or women with disabilities, we note that consideration could be given to capturing coercive controlling behaviours in contexts beyond intimate partner violence, for example by family members, extended family or carers.

We conclude by outlining suggestions from subject matter experts to provide additional protections if an offence of coercive control is created.

About this project

Background

This research was commissioned by Women’s Legal Service Queensland, in partnership with North Queensland Women’s Legal Service. The research was funded by the Queensland Department of Justice and Attorney-General with in-kind support from both the Women’s Legal Services and the University of Queensland Pro Bono Centre. The research was conducted by Clarity Consortium. The lead researcher was Ms Rachel Healy, along with team members Ms Katy O’Callaghan in Brisbane and Ms Beth Tinning in North Queensland, and assistance early in the project from other Clarity Consortium team members, Ms Gretchen Young and Ms Sue Goodwin.

The research proposal was developed in early 2020, at a time when public discussion about coercive control was increasing, but the question of whether it should be criminalised remained open. In anticipation that an offence of coercive control might be considered, our research aimed to put the community legal sector on the front foot, with three aims:

4. To better understand the prevalence of coercive control for diverse client cohorts of Women’s Legal Service Queensland and North Queensland Women’s Legal Service (herein referred to as the two Women’s Legal Services unless we are referring to one specifically);
5. To learn from Queensland women with lived experience of coercive control, including those who have been misidentified as the respondent, about what legal centres can do to safely elicit full disclosure and understanding of their circumstances; support them through the Court process; and link women to support services to build self-efficacy and address non-legal problems; and
6. To contribute to public policy discussion in Queensland by better understanding the prevalence and nature of coercive control in Queensland, and learning from the literature, subject matter experts and survivors what the implications may be for community legal centre demand and practice.

After the project commenced, the Queensland Government established the Women’s Safety and Justice Taskforce (herein referred to as the Taskforce). The Taskforce is examining i) coercive control and the need for a specific offence of domestic violence and ii) the experience of women across the criminal justice system. The scope of the Taskforce includes consideration of how best to design, implement and operationalise legislation to deal with coercive control.

During the life of the project, the New South Wales Joint Select Committee on Coercive Control finalised its report, recommending that a criminal offence of coercive control be implemented but only after considerable education, training and consultation with police, stakeholders and the frontline sector. Recognising that laws alone can’t address a complex problem, other reforms were recommended to increase funding for, and improve responses by, the wider service system.

While our research has unfolded in a dynamic environment, our aims have remained the same: we sought to understand how community legal centres can best support women within the existing legislative framework in Queensland, and to position the sector to contribute to public policy

discussion through an understanding of the prevalence of coercive control, and the potential implications of a move to coercive control being criminalised.

About this report

This report is structured in six parts:

- Part 1 discusses what coercive control is
- Part 2 reports on our findings about the prevalence of coercive control amongst clients of the two Women’s Legal Services involved in the research and how legal centres can best identify that clients are experiencing coercive control
- Part 3 reports on what we learned from interviewing 15 survivors of coercive control, with a particular focus on how community legal centres can best support women experiencing coercive control
- Part 4 presents suggestions for how legal centres can best assist clients with diverse needs and from a range of different backgrounds
- Part 5 presents suggestions for training – for lawyers, police and the judiciary
- Part 6 concludes with implications for community legal centres if an offence of coercive control is created in Queensland.

Method

A full account of our research method is included in Appendix 1. In brief, we used a mixed methods approach, reporting to Women’s Legal Service Queensland as the commissioner of the research and to a reference group comprising experts in domestic and family violence. The reference group informed and approved all key research methods, including an ethical research plan for our interviews with women with lived experience of coercive control.

The methods comprised:

- A targeted, rapid literature review by the University of Queensland Pro Bono Centre, with follow up review by Clarity Consortium of emerging research and leads suggested by subject matter experts
- Interviews with three survivors of coercive control to inform the design of a data collection process by the two Women’s Legal Services
- A three-month data collection process to understand the prevalence of coercive control in clients of the two Women’s Legal Services
- 18 interviews with subject matter experts
- Interviews with 15 survivors of coercive control who had been clients of one or both of the Women’s Legal Services. We sought to understand women’s experience of coercive control, how they realised they were experiencing it, and their experience with the Women’s Legal

Service and other services (including outcomes, and what worked well or could have been better).

Every effort was made to speak with women from diverse backgrounds and life experiences. An overview of the characteristics of the women who contributed to the research is included in Appendix 1.

Part 1 – What is coercive control?

About this section

Part 1 presents definitions of coercive control from the literature, in legislation, and as reflected to us in survivor interviews. It notes the seriousness of coercive control and concludes with approaches to questioning as recommended by a subject matter expert.

Key points

- Definitions in the literature, and in legislation in jurisdictions which have criminalised coercive control, focus on the persistent, ongoing nature of the abuse (a course of conduct) which has the effect of victim-survivors being entrapped and isolated
- Coercive control causes significant harm to women and their children, even after separation, and has been associated with intimate partner homicide in the research and in Queensland domestic and family violence death reviews
- Queensland legislation recognises coercive control, but in a list of behaviours – critics note this misses the patterned nature of coercive control and can capture isolated incidents, including defensive or retaliatory violence by victim-survivors
- The survivors we interviewed described ongoing patterns of controlling behaviour and strikingly similar impacts of the abuse, despite their diverse backgrounds, ages and circumstances
- Perpetrator behaviours described by survivors were consistent with the literature and included physical and/or sexual violence or coercion, or threats of the same, as well as legal systems abuse
- When practitioners are initially working to identify whether women might be experiencing coercive control, subject matter experts reinforced the importance of questioning women about the *impact* of behaviours rather than asking women to describe the specific behaviours

Recommendation

- During initial conversations with clients, legal practitioners ask clients a question about the *impact* of the behaviours (sample questions provided in a text box on page 21) as clients may find this easier to articulate than the specific abusive behaviours, particularly where gaslighting is occurring

What is coercive control? – from the literature

A recent ANROWS policy brief gave the following succinct definition:

*Coercive control is a **course of conduct** aimed at dominating and controlling another (usually an intimate partner, but can be other family members) and is almost exclusively perpetrated by men against women (emphasis added; ANROWS 2021).*

In most definitions used in the literature, and in the legislation of jurisdictions which have criminalised coercive control, it's recognised that a hallmark of coercive controlling behaviour is that it's a pattern of behaviour, as opposed to a one-off incident.

In Australia, there is no agreed definition of coercive control. ANROWS has called for national harmonisation of definitions of domestic and family violence and its relationship to coercive control, with the aim of setting the context to understand coercive control, namely as the *context for abuse* rather than a *discrete tactic of abuse* (ANROWS 2021).

The importance of a national definition was signalled in the delegate statement from the National Summit on Women's Safety, convened by the Commonwealth Government in September 2021. Delegates noted the need for "a national conversation about coercive control to ensure shared language and understanding" (National Summit on Women's Safety 2021).

Evan Stark frames coercive control as a liberty crime, an ongoing attack on personhood. He identifies four key aspects of this behaviour: violence, intimidation (including threats, surveillance, degradation, withholding money), isolation, and control (principally through the micro-regulation of everyday behaviours, and the institution of rules) (Stark 2007 and 2012).

In a similar vein, the New South Wales Joint Select Committee on Coercive Control described coercive control as "a **pattern of abuse** that degrades, humiliates and isolates victims, and takes away their freedom and autonomy" (emphasis added; Parliament of NSW 2021).

A 2020 survey of over 15,000 women in Australia by the Australian Institute of Criminology, defined coercive control to include "experiencing three or more [from a list of thirteen] emotionally abusive, harassing or controlling behaviours, indicating a **pattern of behaviour**" (emphasis added; Boxall and Morgan 2021). The study found that the different coercive controlling behaviours reported by the women could be grouped into the following themes: jealousy, monitoring of movements, financial abuse, social restriction, and emotional abuse or threatening behaviours. The authors noted that the themes are not distinct and may co-occur.

Whilst the literature strongly emphasised the patterned nature of coercive control, members of the research reference group noted that some women may struggle to describe ongoing patterns of behaviour. They also noted that sometimes a standalone trigger event can give rise to a relationship of fear that is so intense that threatening behaviour doesn't need to be repeated to maintain control. Examples given by reference group members included a threat to deport a woman residing in Australia on a temporary visa or events of terrifying physical or threatened violence to a woman or a loved one of the woman.

Importantly, although coercive control has become associated with non-physical forms of abuse, the literature emphasises that sexual and physical violence are forms of coercive control. The literature also recognises that legal systems can themselves be used as tools of abuse, referred to as legal systems abuse (Douglas 2018).

Some argue that coercive control is better understood using the conceptual model of social entrapment. From this perspective, the harms caused within the abusive relationship are magnified by institutional responses (or lack of a response) to the victim-survivor's suffering, and the structural inequities associated with gender, class, race and disability (Tolmie et al. 2018) The experience of

legal systems abuse and variable institutional responses emerge in the experiences of the survivors we interviewed, and insights from subject matter experts.

What is coercive control? – in legislation

The preamble to the Queensland *Domestic and Family Violence Protection Act 2012 (Qld)* recognises that domestic violence “usually involves an ongoing pattern of abuse over a period of time”. However, section 8 defines domestic violence to include “behaviour by the first person towards another second person that is physically, sexually, emotionally, psychologically or economically abusive, threatening, coercive, or which ‘in any other way controls or dominates the second person and causes the second person to fear for the second person’s safety or wellbeing or that of someone else.” The Act goes on to list specific behaviours that would encompass what is understood to be coercive control.

Whilst this definition captures many of the behaviours that are recognised as coercive control, it has been criticised for presenting the behaviours as “a list of tactics rather than the overarching context required to consider these behaviours as DFV [domestic and family violence]. This allows physically abusive behaviours – like violence during family fights – occurring outside of an overarching strategy of control and coercion to be legitimately called DFV in legislation intended to address coercive controlling DFV” (Nancarrow 2019 cited in ANROWS 2021).

The offences of coercive control outlined below explicitly construct the offence as a pattern of behaviour, rather than individual incidents of violence or abuse.

In England and Wales, a pattern of coercive and controlling behaviour has been part of the definition of domestic abuse since 2013, and became a criminal offence in 2015. Notable in the definition is:

*“a person (A) commits an offence if A **repeatedly or continuously** engages in behaviour towards another person (B) that is controlling or coercive”*
(emphasis added, s76(1)(a) of Serious Crimes Act 2015)

Scotland, which has been internationally lauded as having the most comprehensive and progressive response to coercive control in terms of legislation and policy, introduced an offence of ‘domestic abuse’ in 2018. Notable in the definition is

*“A person commits an offence if the person (“A”) engages in a **course of behaviour** which is abuse of A’s partner or ex-partner (“B”)”*
(emphasis added; s1(a) Domestic Abuse (Scotland) Act 2018).

Ireland introduced an offence of coercive control under its *Domestic Violence Act 2018*, which states that:

*“A person commits an offence where he or she knowingly and **persistently engages in behaviour** that is controlling or coercive”*
(emphasis added s39(1) Domestic Violence (Ireland) Act 2018)

In Australia, Tasmania established offences of ‘economic abuse’ and ‘emotional abuse or intimidation’. Here again, the definition recognises this as a course of conduct:

*“A person must not pursue a **course of conduct** that he or she knows, or ought to know, is likely to have the effect of unreasonably controlling or intimidating, or causing mental harm, apprehension or fear in, his or her spouse or partner” (emphasis added, s9 Family Violence Act 2004 [Tas]).*

Other Australian states and territories also have offences related to stalking and intimidation. However, no other Australian jurisdiction currently has an offence related to the pattern of behaviour that comprises coercive control.

The seriousness of coercive control

Research confirms that coercive controlling behaviours, even in the small proportion of people who experience only non-physical abuse, cause significant and long-lasting harm (McMahon and McGorry 2020). These behaviours can be harmful not just to the person abused, but to their children, and can continue to harm children after separation (Katz et. al. 2020).

Coercive controlling behaviours have been associated with intimate partner homicide (Monkton Smith 2020). In fact, mounting evidence suggests that the risk of future sexual assaults and severe and fatal violence may be better predicted by the level of control in an abusive relationship rather than prior assaults (Stark 2012).

The 2016-17 Annual Report of the Queensland Domestic and Family Violence Death Review and Advisory Board reported that:

Coercive controlling violence was evident in almost all cases [reviewed by the Board] however, this was unlikely to be responded to unless reports of physical violence were concurrently made. Covert and nonphysical forms of coercion, such as social isolation, harassing or threatening behaviour, possessiveness or verbal abuse were less likely to be recognised by services as potential indicators of abuse or reported by victims.

In New South Wales, a review of domestic violence homicides between 2008 and 2016 found coercive and controlling behaviours were evident in 111 of 112 cases (Parliament of New South Wales 2021).

Experiences of coercive control – what survivors told us

When we interviewed women who had experienced coercive control, we asked them how they would have described their situation when they were in the abusive relationship, and what a typical day was like. Women were able to describe both the perpetrator’s abusive behaviours, and the impact of the coercive control. The consistent themes were of feeling stress and pressure, living in a state of high alert, with many engaging in exhausting protective behaviours – to protect themselves and/or their children - from the moment of waking.

These reflections go to the harmful, ongoing, persistent nature of the abuse rather than one-off incidents. What is striking is how similar many of the descriptions are, across the women’s diverse ages, educational backgrounds and cultures.

I would wake in the morning and think “What do I have to do to make sure he doesn’t respond?” – No marks on the kids. No food. What will I dress them in? The more time went on, the worse it got. (older woman from CALD background)

A typical day was me up early, getting kids sorted, getting them to school, me to work, thinking about groceries, dinner, if we had the money for the bills...When I’d get home, me and the kids would hold our breath to see if he’d be angry. Or drunk. Or if he’d be the fun-loving smile fun Dad. If he was angry, I’d have to do my best to keep the kids out of his way...If I interrupted him or anything else, that would be it. Insults, swearing, put downs. Frightening the kids and the dog. Breaking things. Punching holes in the walls. (First Nations woman)

The day would start with me getting up really early to make sure everything was perfect by the time he woke up...It was like walking on eggshells all the time. Worse than eggshells, it was like cut glass, walking on cut glass. (English speaking woman)

Constant strain, constant stress, constant pressure...thinking [about] every action I would take and reaction – from getting out of bed, when, what I cooked, what the children did. (English speaking woman)

He’d go from 0 to 100 in seconds. (young First Nations woman)

Exhausting, painful, overwhelming. (woman with disability)

Nervous, lost, tired. (woman from CALD background)

I would wake at 2.30am just with a knot in my stomach because you don’t know how he’s going react to anything. Like, he could just wake up in a foul mood and then it’s just going to be horror...or he could wake up feeling like he’s never loved you more in your whole life and you’re the greatest thing that’s ever happened to him and he’s love-bombing you...you just don’t know and I think that was the hardest part. (older woman)

The thing is there is never a typical day. I never knew what might set him off and every moment was spent trying to second guess what I might do that would set him off. (English speaking woman)

I was always on high alert, watching and waiting for what might happen...my husband treated me as if I was stupid. (woman from CALD background)

He could be so lovely to everyone else but really mean to me. There were so many things he would do to make me feel it was my fault...I would try and control how things would be by being nice – I would never contradict him. He would scream at me. It progressively got worse and worse. (older First Nations woman)

I felt helpless, like I was a bad woman...stressed, blaming myself, tired, anxious. (woman from CALD background)

I constantly felt under pressure – my anxiety was constantly through the roof...It was hell. (English speaking woman)

Everything was couched in concern for my safety, but it was about entrapment. I didn't know that then...I was locked in the house, not allowed to go anywhere. (English speaking woman)

I can say that I was living in all kinds of abusive behaviour – I've had emotional abuse, economic, financial, verbal, all kind of abuse, even physical. He's been taking my money, using my bank account just to restrict my movements so I can't do anything, can't go to anything...He gives me things but at the same time he wants to control my movements...He also controls me when I want to go outside with kids – just in every single thing. He also will damage my things (for my study) because he doesn't want me to progress myself. If I stop him from doing that, he'll start abusing me physically. (woman from CALD background)

In light of the above insights ¹, it seems likely that many of the questions that police and first responders in the United Kingdom are trained to use (outlined in the box on page 21) could also assist women in Australia to verbalise the impact of coercive controlling behaviours.

Interestingly, one of the First Nations women we interviewed reflected on the value of similar lines of questioning, reinforcing that this approach seems to have relevance across cultures.

She [the lawyer] asked the right questions like 'How did you feel when you came home each night? Were you happy to see him?'

The abusive behaviours we heard about were consistent with the literature

The abusive behaviours described by the women we spoke with were consistent with the 13 behaviours used by the Australian Institute of Criminology for a study conducted in 2020 (refer to Appendix 2). We heard stories of constant abuse, belittling and degradation, gaslighting, threats, sleep deprivation, monitoring and stalking, technological abuse and surveillance, jealousy and accusations of cheating, isolating women from their friends, family and/or community, financial abuse, sexual coercion and restrictions on access to the tools of independence, such as finances, car, pursuing studies or a phone. Other elements of the abuse we heard described are outlined below and also align to existing research:

- **Escalation over time**
Most women described an intense period of attention and courtship, with controlling and abusive behaviours increasing in severity and frequency over time.
- **Co-occurrence of physical and sexual violence:**
Most women also reported experiences of horrific physical and sexual violence, including in some cases risk factors for lethality such as choking and strangulation.

¹ In this section of the report, we have included some description of the backgrounds or ages of the women we interviewed to highlight the common themes across such a diverse group of women. Unless critical to understanding a point, we have not continued this practice in the remainder of the report. This is out of concern for the women's safety as some details may be identifying.

- **Abuse was perpetrated *primarily* by an intimate partner:**

This was the case for 14 of the 15 women interviewed, except for an older First Nations woman, who was abused by a sibling.

- **Involvement of the perpetrator's extended family:**

This was reported by two women from immigrant backgrounds and two First Nations women. This involved either contributing to the woman's feelings of entrapment and/or actively perpetrating abuse.

- **Behaviours described by several women were consistent with the concept of legal systems abuse:**

We heard of perpetrators obstructing the progress of legal processes by not providing requested documents, failing to appear at scheduled legal processes, or undermining legal processes through the instigation of new ones at the last minute. One woman noted that her abuser had experience of using the legal system as a tool of control with a previous partner.

He's done all this before – he's very, very experienced.

One First Nations woman told of her non-Indigenous abuser calling local family lawyers and a specialist Indigenous legal service, causing her to be 'conflicted out' of accessing the services². This perpetrator successfully applied for a cross-order against the woman, with the police encouraging her to accept being named as the respondent in the cross-order despite having initially been identified as the aggrieved. The perpetrator then used the cross-order to create an institutional history of being the victim in the Magistrate and Family Courts and other essential financial and support services.

...it became more dangerous, and I could see how badly it affected the kids. And so I tried to leave and here I am now, the one the Court say is the perpetrator and him using the Courts to keep me under his power.

² Being 'conflicted out' refers to the process whereby a party can't obtain legal assistance from a service because the other party has already accessed the service. Providing legal assistance to both parties would constitute a conflict of interest. Even a fairly brief approach to a service by one party can 'conflict out' the other party.

Asking women about coercive control – insights from the United Kingdom

We spoke with a former police officer and survivor of coercive control who was integral in designing the Safe Lives police training to support the criminalisation of coercive control in the United Kingdom. Police officers are invited to choose a question that they feel comfortable asking and use it as an opportunity for incidental screening in all policing contexts.

For the purpose of identifying whether someone might be experiencing coercive control, the training developer noted the importance of asking people questions about the *impact* of the controlling behaviours, rather than asking people to describe the specific perpetrator behaviours, which may be difficult to do, particularly if gaslighting is a feature of the abuse. This accords with the literature which notes that specific coercive controlling *behaviours* are bespoke to each relationship (Parliament of New South Wales 2021).

The following list of questions is a menu of sample questions, from which front line responders might choose one or two to use – it is not intended to be a lengthy interview script.

- What is the first thing you think of when you get up in the morning?
- Describe what a typical day is like for you?
- Can you tell me what things your husband/wife/partner expects you to do?
- Are there things that your husband/wife/partner makes you do that you do not want to do?
- How scared do you feel?
- What does your husband/wife/partner do that makes you feel scared?
- What is life like for you living here?
- If you could change anything about your relationship, what would you change?
- What things do you do to keep yourself safe?
- How is this relationship different to any of your previous relationships?
- How often do you see your family and friends?
- How does your husband/wife/partner react if you disagree with them?
- If you were to give advice to a stranger about having a relationship with your husband/wife/partner if you were not with them anymore, what would it be?
- Do you feel like you are “walking on eggshells”?
- How often do you see people outside your family/community?
- What do you think would happen if you were to speak to someone outside your family/community?
- Who decides what is done in the family?

Part 2: What is the prevalence of coercive control, and how should it be identified?

About this section

Part 2 reports on our efforts to understand the prevalence of coercive control amongst clients of the two Women's Legal Services and our findings. It then presents data from national studies and concludes with our suggestions for how community legal centres, Women's Legal Services and other specialist legal services might continue to better identify and support women experiencing coercive control.

Key Points

- The prevalence of coercive control identified amongst clients accessing the two Women's Legal Services in August 2021 was 51% (Women's Legal Service Queensland) and 38% (North Queensland Women's Legal Service) - this is believed to be a significant underestimate.
- Two Australian studies suggest that up to one in four women in the general population experience coercive control in a cohabitating relationship, and one study identified significant overrepresentation of First Nations women, women who spoke a language other than English at home, and women with long term health conditions that reduced their ability to undertake day to day activities.
- We were unable to identify fit-for-purpose coercive control screening or risk assessment tools that legal centres could use 'off the shelf' to collect prevalence data and systematic reviews have found there is equivocal evidence about the benefits of universal screening for domestic and family violence in health care settings. We therefore do not feel able to recommend implementation of universal screening or data collection tools.
- We do suggest a modest first step for collecting coercive control prevalence data amongst clients of community and specialist legal centres, coupled with skills development to equip current and future lawyers to pursue sensitive inquiry and respond appropriately to disclosures. These processes must be underpinned by trauma-informed and culturally safe practice.

Recommendations

- Community and specialist legal centres make best efforts to collect data about the prevalence of clients experiencing coercive control to inform intake and triage decisions, service planning and funding advocacy. We recommend this data be recorded by legal centre staff, entered into CLASS and obtained using a 'light touch' approach as detailed on page 26.
- The existing and future legal workforce be trained to identify the signs of coercive control, pursue sensitive inquiry and respond appropriately to disclosures, underpinned by trauma-informed and culturally safe practice (training suggestions detailed in Part 5).

Purpose and approach to estimating prevalence

One of our research aims was to better understand the prevalence of coercive control for diverse client cohorts of the two Women’s Legal Services. The intended value of this data was to:

- understand the prevalence of coercive control by different client characteristics and circumstances, and
- inform demand modelling and service planning in the event that coercive control is criminalised in Queensland.

The data collection proved challenging and, ultimately, both services believe that the reported prevalence is a significant underestimate. After discussing various data collection options (reported in Appendix 2), the two Women’s Legal Services opted for staff to use a shared definition of coercive control and apply professional judgements about whether clients were experiencing coercive controlling behaviours during intake or appointments. We recommended using the 2020 definition of coercive control developed by the Australian Institute of Criminology, reproduced in Appendix 2. To capture the data, each service added an additional tick box on forms for lawyers to complete.

There are obvious methodological limitations in taking this approach, as the identification of coercive control is based on professional judgement rather than a validated, consistent screening tool or other methods of deliberate inquiry. However, this was considered the most pragmatic and ethical solution given the difficulties identifying an efficient, validated screening tool and that both services identified their priority was taking a history and providing timely and appropriate legal assistance rather than contributing to research.

What we found

In the early stages of data collection (June and July 2021), both services reported lower than expected prevalence (8% for clients of Women’s Legal Service Queensland and 16% for clients of North Queensland Women’s Legal Service). Both services suspected this was a data collection issue, with busy lawyers overlooking the check box for recording this data.

After concerted efforts to encourage lawyers to record the data, the reported prevalence increased for the month of August 2021 to 51% (n=511) for Women’s Legal Service Queensland and 38% (n=626) for North Queensland Women’s Legal Service. Based on practice knowledge and a deep understanding of their clients, both services believe this remains an underestimate of the prevalence of coercive control amongst the women accessing their services.

Whilst neither Women’s Legal Service is a dedicated domestic and family violence service, both see very high proportions of women experiencing domestic and family violence. For comparison, a 98% co-occurrence of coercive control with physical or sexual violence was reported by clients contacting DV Connect in 2020-21 as part of their crisis intervention. This would tend to bear out the assessment of the two Women’s Legal Services that their data collection is an underestimate.

What is the prevalence of coercive control amongst women in Australia?

For additional context, we looked for comparative data about the prevalence of coercive control in Australia. In short, findings from two studies suggest that up to one in four women experience coercive controlling behaviours by a cohabitating partner (Boxall, Morgan and Brown 2020 and ABS 2016).

A 2020 study by the Australian Institute of Criminology sought to investigate whether domestic and family violence increased during the initial stages of the COVID-19 pandemic (Boxall, Morgan and Brown 2020). As noted above, the definition used by this study was adopted for use in the data collection by the two Women's Legal Services.

The survey of 15,000 women found that in the past 12 months, about one in twenty women had experienced coercive control (defined as experiencing three or more forms of emotionally abusive, harassing or controlling behaviours), rising to one in 10 women having experienced some emotionally abusive, harassing or controlling behaviours. A high co-occurrence of physical and sexual violence was reported: of the one in 20 women who reported experiencing coercive control, 61.1 per cent also reported experiencing physical or sexual violence.

Alarming, the prevalence was even higher among the 7,763 women who had been in a cohabitating relationship in the previous 12 months. Of these women one in 10 had experienced coercive control (three or more forms of emotionally abusive, harassing or controlling behaviours) and almost one in four (22.4 per cent) had experienced some emotionally abusive, harassing or controlling behaviours.

The study also found a significant overrepresentation of coercive control amongst some groups of women when compared with the sample of all women surveyed in current or former cohabitating relationships: Aboriginal and/or Torres Strait Islander (accounting for 20% of women experiencing coercive control vs 4% in the total sample of women); women who spoke a language other than English most of the time at home (35% vs 17%) and women with a long-term health condition restricting their ability to undertake day to day activities unassisted (29% vs 11%).

Whilst the above data is more recent, its focus was on understanding the impact of the COVID-19 pandemic and therefore the data is limited to women's experiences of coercive control or violence *in the previous twelve months*. In contrast, the 2016 ABS Personal Safety Survey investigated experiences of violence or emotional abuse *since the age of 15*, by a cohabitating partner. The survey findings were that:

- about one in six (17%) women had experienced cohabitating partner violence since the age of 15 and
- about one in four (23%) women had experienced cohabitating partner emotional abuse since the age of 15 (ABS 2016). For this survey, emotional abuse was defined as behaviours aimed at preventing or controlling a person's behaviour, causing them emotional harm or fear, usually repeated behaviours.

What is best practice in identifying coercive control?

A specific goal of our research was to identify best practice in identifying coercive control when community legal centres take a history from clients, including investigation of the different needs and considerations when responding to First Nations women and women from culturally and linguistically diverse backgrounds. Through desk research and interviews with subject matter experts and survivors, we sought to understand ways community legal centres could assist clients to identify and verbalise that they're experiencing coercive control.

Our research led us to consider various domestic and family violence screening and risk assessment tools, recommended approaches to interviewing clients and the skills needed to do this sensitively and respond appropriately.

We had circular discussions amongst the research team and reference group about the best option for community lawyers to identify coercive control: using screening and data collection tools to better identify clients experiencing coercive control and/or upskilling the workforce to recognise the signs of coercive control, pursue sensitive inquiry that is trauma-informed and culturally safe, and respond appropriately.

Informed by expert advice and work in the health care sector, we have concluded that the best way forward is to upskill the current and future legal workforce but not implement a specific screening or risk assessment tool. The considerations that led to this recommendation are outlined in Appendix 3.

Elements of good practice in identifying coercive control are outlined in our suggested training for lawyers and undergraduate law students outlined in Part 5. These include: recognising the signs of coercive control; sensitive, trauma-informed and culturally safe inquiry; responding and referring clients appropriately; and technical skills in acting on a disclosure of coercive control by providing appropriate legal advice and assistance.

What might this mean for Community Legal Centres, Women's Legal Services and other specialist legal centres?

We think there's value in the two Women's Legal Services, other specialist legal centres, and community legal centres attempting to collect ongoing data to better understand the prevalence of coercive control amongst their clients. At a systems level, this data could inform service planning and sector advocacy efforts, particularly if coercive control is criminalised and centres face increased demand for legal assistance.

We also envisage that identification of coercive control could inform intake and triage decisions by centres and legal advice to clients, recognising that coercive control causes significant harm and is a known factor for further harm, including intimate partner homicide (Women's Safety and Justice Taskforce 2021).

We are not suggesting that centres ask long checklists of questions, as we appreciate the time constraints facing busy services. However, we recommend that centre intake or triage processes could incorporate and trial the 'light touch' approach suggested below. If this data was entered into

the client record in the Community Legal Assistance Services System (CLASS)³, it would allow sector-wide analysis of coercive control across diverse client cohorts and other variables such as matter types or service provided.

A suggested approach could include:

- using a scene-setting script along the following lines, to reduce feelings of shame or embarrassment about disclosing abuse

Sometimes as people start to go through the legal process, they begin to realise that the behaviour or expectations of their partner actually are not okay. Our clients who have experienced this have told us it has helped to talk to us, the solicitors, about this because sometimes the legal response may need to change to improve their safety; and

- then asking one of the questions from the text box on page 21, or a similar question that asks people to think about the impact for them of what's happening at home, with a tick box for staff to complete if coercive control is suspected; and
 - if a disclosure is made, providing an appropriate response including a warm referral to support services, and an alert for lawyers (if intake is done by a non-legal professional) to inform their legal advice; or
 - if the client doesn't make a disclosure, giving them a checklist of coercive controlling behaviours to take away and consider, along with details of support services, to plant the seed in circumstances where someone may be experiencing abuse but can't yet recognise it or talk about it. To make this as accessible as possible, plain English and Easy English versions of information are recommended.

The above approach would be best underpinned by our suggestions to upskill lawyers and intake staff to feel confident to respond appropriately to disclosures of coercive control.

³ CLASS is the case management and funder reporting database used by community legal centres in Australia.

Part 3 – How can community legal centres best assist women?

About this section

Part 3 reports what we heard from survivors, noting insights from subject matter experts and the literature where relevant. Part 3 is deliberately lengthy to allow survivor voices and stories to be told. We report survivor experiences in relation to the two themes:

- Theme 1: Insights that could inform community legal centre practice, including what women valued in the existing system and what could be better
- Theme 2: The significant impact of police responses, both positive and negative, including the response to breaches of Domestic Violence Orders

Theme 1: What women valued – key findings

- Information about what coercive control is, and available services, could be helpful - particularly for women from culturally and linguistically diverse backgrounds and First Nations women
- Women valued being acknowledged, believed and treated kindly.
- Almost all spoke highly of the quality of support and advice they received from the Women’s Legal Services, and appreciated receiving realistic advice about the system and the long haul ahead (see next point)
- But women struggled to navigate multiple legal matters, most without representation, in a victim-reliant justice system
- The CARE model developed by the University of Melbourne, for use by health professionals, offers an approach to working with women experiencing domestic and family violence that strongly aligns to what survivors told us
- Duty lawyers were pivotal for many of the women we interviewed, who described the extreme stress of attending court and the value of having duty lawyer support
- Warm referrals were a common entry point for accessing the two Women’s Legal Services and similarly were the most effective way by which the two Women’s Legal Services connected survivors to other essential supports and services – women’s stories highlighted the value of the sector working together in a coordinated way
- Tips to guide women about collecting evidence of coercive control can help—and may bear fruit long after the advice is given
- Women’s experiences of Legal Aid were mixed, possibly due to the time and funding constraints on Legal Aid lawyers. Although not within the remit of this report, we note this given the critical role Legal Aid plays in the wider legal assistance system, and more so if coercive control is criminalised.

Theme 1: Recommendations – for community legal centres

- Provide information about coercive control and available services to plant a seed and assist women to identify if they may be experiencing coercive control – information should be in plain English and Easy English to maximise accessibility
- Consider the CARE model, with the addition of trauma-informed and culturally safe practice, as a helpful framework for *how* to work with women experiencing coercive control, and note the value of having female staff and a safe and discrete location
- Provide realistic advice about the challenges of, and long haul involved in, navigating multiple legal matters and courts, but provide this frank advice incrementally to avoid deterring women from leaving an abusive situation and pursuing their rights
- To the extent possible, provide coordinated and ongoing support to navigate multiple legal matters, recognising the long-term harm and exhaustion of being subject to coercive control and the victim-reliant nature of the justice system
- Maximise the preventative and early intervention value of duty lawyers – duty lawyers should make best efforts to: proactively make themselves known to women who may not know ‘who’s who’ in the courtroom; provide warm referrals to other services and supports; and, for women at high risk (e.g. misidentified as a respondent), seek to schedule future matters on days that will allow continuity of duty lawyer support
- Prioritise warm referrals and coordinated supports for women experiencing coercive control, even where women have high levels of capability or are on a high income/are asset rich. This recognises that coercive control is a significant risk factor, and the debilitating harm and exhaustion it causes
- Pursue community legal education to equip bystanders, allies, family and friends and to ensure non-legal services that support women with legal matters, particularly applications for protection orders, do so accurately.

Recommendation for the two Women’s Legal Services

- Develop tips for collecting evidence safely and alert women to the fact this may only bear fruit over a longer time period, for use across the community legal sector.

Recommendation for government

- Improving legal assistance to women experiencing coercive control needs to recognise the complex multiple legal pathways most women need to navigate to pursue safety for themselves and their children (e.g. domestic and family violence law, family law, property and financial settlements, potentially also child protection or criminal matters). Responses also need to recognise that legal systems themselves are being used as tools of ongoing coercive control even after separation. Meeting this need requires adequate resourcing for community legal centres, specialist legal services and Legal Aid to be able to provide more holistic and coordinated legal assistance. This includes recognising the time needed in legal appointments to hear women’s stories and understand the complexities of their situation.

Theme 1 – insights to inform community legal centre practice

Women thought information about coercive control could be helpful...

Almost all women thought access to information about coercive control could be helpful to support women to understand their experience and possibly recognise that they were experiencing coercive control. One woman thought it could have helped her recognise her situation earlier.

I think knowing what the heck coercive control even is would have been helpful – have it be on the news, have it somewhere people can hear it, I literally had no idea.

One woman who had been given information by services had found it helpful in processing what had happened to her—after the fact.

When you get things over the phone, it can be overwhelming. It's good to have [written] things to go back to.

Hidden in Plain Sight by Scottish Women's Aid was suggested by one of our subject matter experts as an inclusive and helpful video resource that could be played in service waiting rooms, and may help women identify they're experiencing coercive control. A sample poster and checklist for display in waiting rooms is also provided in Appendix 5.

...but ultimately, most survivors thought this information would not have helped them leave earlier

While women generally felt information was valuable, all but one thought that nothing could have helped them act earlier than they did. This is significant and emphasises the importance of services offering non-judgemental supports and allowing women to make decisions in their own time.

Reflecting on why they didn't leave earlier, women spoke of their shame and embarrassment, self-blame, and the efforts they made to conceal what was happening and protect their abuser and/or their children. Isolation resulting from the coercive controlling behaviours also reduced the potential support network that some women could draw on. Almost all spoke of blaming themselves for a long time and trying to change their own behaviour to improve the situation.

No one would come and visit me while he lived here...I had no one to talk to about it...I was getting scared...I didn't know it was coercive control. He was my brother. I thought the poor bugger's got mental problems.

No. It wasn't about needing to see it earlier. You've got to give a relationship time; you don't just end a marriage when the going gets tough...it isn't easy to leave. There's shame. I was so ashamed. I grew up trying to shout out to everyone that Aboriginal women are proud and deadly, that our culture is not abusive, that we are not drunks in DV families. I felt like I'd failed so I tried to hide it for ages.

I was always trying to fix it, I thought it was me. Where am I going wrong? What am I doing wrong?

No. I reckon I was the first person to see it, but no one else saw it for ages – because on the surface I was hiding how bad it was.

It kind of creeps up – hindsight’s great...I don’t know if anyone could have convinced me to give it up...I didn’t want to talk about it – first and foremost to protect the girls.

I thought it was me...and I sought help through a child psychologist [because of emerging behavioural problems with the children, which the psychologist identified were indicators of the children having lived in an abusive home from a young age].

Even when [I] realised it was no good I couldn’t leave - I was financially trapped. The other thing was...the children...Kids and finances [are] maybe the reason why I didn’t leave, even though I wanted to.

Our fear for our kids keeps us under coercive control.

I was under some sort of delusion that things weren’t as bad as they seemed. Everything seemed to point to a problem, but I didn’t want to believe it. Everyone in my life expressed concern...I was making up excuses for him.

I hid it so well until I hit breaking point. I was embarrassed that someone had cheated on me and I’d fallen pregnant to him. Everyone used to say, “You’re such a strong black woman, you’re so beautiful together.” But it was so different in reality.

My whole marriage, everything was me trying to explain the children to [name of father/perpetrator] and [father/perpetrator] to the children. I didn’t want them to be afraid of him.

However—information could be critical for First Nations women or women from immigrant and refugee backgrounds

The additional challenges for women from culturally and linguistically diverse backgrounds emerged in some interviews. Isolation, pressure from extended family and lack of knowledge of available services, Australian laws and norms were factors that stopped women from recognising a problem earlier. Limited knowledge of rights and services is also documented in the literature (El-Murr 2018). This suggests that information about Australian rights, visa conditions and available services could potentially play an important role in assisting women from immigrant and refugee backgrounds to leave earlier. The quotes below are from four survivors from culturally and linguistically diverse backgrounds.

I had no idea about Australian culture and if this was what every woman put up with. I didn’t want to complain by that point because it had been such an awful and protracted experience to achieve residency in Australia.

I realised [there was a problem] early. [the abuse] was starting within 10 days of marriage overseas. I asked the family and they encouraged me to stay with him...It’s really hard for a person like me. I’m not mixing with the community – don’t know everything...I don’t know why I didn’t leave earlier – I always feel scared...No one helped.

It just takes one person to believe in you to get out of trouble...some people don’t know about [domestic violence services]...if I was not courageous to talk to someone, I wouldn’t know about them.

I had never heard of a DVO back in my country...a social worker...said this relationship is an unhealthy relationship. The thing that helped me make a decision [to leave] was that whatever was going on was affecting my daughter.

One First Nations woman that we spoke with shared that her abuser's behaviours had isolated her from extended family, she had no one to talk to about the abuse, and wouldn't have known how to get help but for a warm referral from a hospital where she was an inpatient, and had disclosed her fears of returning home after a procedure.

Do women know about them [Women's Legal Service]? If I hadn't been at the hospital I would never have known.

Strengths of the two Women's Legal Services

In this section, we draw out the particular strengths of the two Women's Legal Services that emerged in the interviews.

Being acknowledged, believed and treated kindly were highly valued

Women spoke of the importance of being acknowledged, believed and treated kindly.

I liked how they treated me as if I was a human, not stupid or dumb because I was in a DV relationship...I'll never forget the kindness of the voice of that first person. She was gentle which isn't something I'd ever expected from a solicitor.

They are just wonderful and so kind. There's no judgement put on you. They don't look at you like you're an idiot. They don't say, "Why did you put up with that for?"

The day Women's Legal Service was there for me as the aggrieved [after previously being misidentified by police as the respondent] – I could take a sigh of relief, it felt amazing.

The Women's Legal Service staff were kind and had a good sense of humour. I could tell they worked hard, and they understood that I was struggling to remember anything because of the trauma. In fact they said the word trauma before the social workers at the shelter said trauma.

I just wanted some support. They [the Women's Legal Service] gave me some background, helped me on the DV safety plan and mental health. They explained that this is not okay. This is not normal. That helped me.

Planting the seed and being non-judgemental are important

Further reflections highlight the importance of planting the seed, offering non-judgemental supports, and encouraging future help-seeking behaviour regardless of whether women feel ready to act on advice or leave the relationship.

I think I felt ashamed for wasting everyone's time when I didn't want a DVPO and when I didn't leave straight away. That made it really hard to ask for help the next time.

[It's] important to ask, but people will talk when they're ready to talk. The questions will make people think about it. It's the start of something when you ask a simple question – then when they're open and ready they'll come back.

Being given trusted advice and options is empowering, and can have preventive benefits

Two women reflected on the importance of being given options and empowered to make decisions for themselves, while a third spoke of the importance of trusting in the advice and professionalism of lawyers to keep matters confidential.

[the Women's Legal Service] give me space to decide – not imposing on me, [they] give me advice and it's up to me to decide what I'd like to. I found that helpful...you are the one who knows what you're going through – no one should impose on you what to do.

With divorce and property matter and the parenting – [the Women's Legal Service] give me all the details and options and at the end of the day I will decide.

They have given me good, honest advice all along. And I trust them to keep it confidential which is something I can't always trust in my own community [Aboriginal community] because our kinship loyalty runs so deep.

In one case, advice from a Women's Legal Service had a huge preventative impact. The advice enabled a woman to avoid committing a crime and being pursued by the Australian Federal Police, as she had planned to return to her home country with a young child until she was advised this would be an offence.

Most women highly valued the support received and the quality of the service

All but two women spoke very highly and appreciatively of the support they'd received from the two Women's Legal Services, particularly duty lawyers (see separate discussion of duty lawyers and their importance for women).

In my case, [there is] nothing I would wish that had been done [that] they [Women's Legal Service] haven't done.

I hadn't thought about this before but my Dad pointed out to me that the quality of the work by [name redacted] at Women's Legal was as good as a private lawyer. I guess we assume that if someone was good, they'd be in private practice earning bucket loads. But actually she worked so hard and was as committed as someone charging me thousands of dollars.

They are ladies with integrity. They believe in what they do. It's not just about the money to them. That is my feeling.

[I have] everything I need. They won't leave me until Legal Aid supports me. They guide me with all the paperwork...I don't need to do everything...it was perfect.

They are really great lawyers and great women. My experience has been fully positive.

They do a great job. You're able to book in. It's a great service to access. It has taken a lot of stress out by running things past someone who has knowledge.

My experience with Women's Legal Service was good from start to finish. Not that I'm really finished.

[name redacted] from Women's Legal Service helped me a lot. She gave me the courage to fight against this.

Not feeling rushed, and being able to rely on support over time

Recognising that legal matters can go on for years, and these can be used as tools of control, women valued not being rushed, and being supported over time.

The Family Court drags out for years, you know? And even though it's officially over, Final Orders and such, he loves to drag me back, just because he can and just because he knows that I have to take unpaid leave from work and juggle the kids' needs again. The Women's Legal has been my only support through it all. I'm representing myself every time and they've been the brains trust behind me every step of the way. I don't know what I would have done without them over the past four years.

The girls at the legal service – what wonderful girls – never did I feel like there was a big hurry – when they spoke to me it was like I was the most important person – I'll never forget them. They're just so lovely. Gave me all the time I needed. I got a new girl part way through, and she was just the same – all so lovely.

They have listened to all my questions and always been so kind, so professional over a very, very long time. It takes a long time to separate in Australia. It probably won't ever be over, the legal control, until my daughters are adults.

Women staff and a discrete location created a feeling of safety

Before I forget, having just women as lawyers, that was key. I don't think I would have talked about the rapes and torture to any bloke. It was that horrible shit though that ultimately got him convicted.

I appreciated the lady solicitor. I felt safe with her, not scared the way I usually am around Australian men.

I was so scared he was following me everywhere. The location was very safe, very discrete.

They are based in a bigger building in a part of the city he doesn't often visit so it felt safer to go there than the area where most of the lawyers in town are, near that Courthouse.

Two women didn't feel supported by the Women's Legal Service – in one case this was a barrier to leaving the abusive situation

Two women who were more critical of the support they received from the Women's Legal Services were from English-speaking backgrounds – possibly a reflection of the constrained environment

which forces the two Women's Legal Services to prioritise services for more vulnerable clients such as First Nations women or women from culturally and linguistically diverse backgrounds.

One woman made the following comment.

Women's Legal Service hasn't helped with anything...I've asked what to write in divorce papers and they check I've filled in the paperwork correctly [as opposed to providing more intensive legal assistance]

On other occasions, the same woman felt judged by the Women's Legal Service for not being upset when the perpetrator experienced a medical emergency. On a subsequent occasion, she later felt that a duty lawyer did not listen to her and instead just wanted to rush through the matter to finish work.

In the second case, the woman was later identified as a high risk because the perpetrator was a former police officer. The woman was ultimately supported to leave the abusive situation by a high-risk team. Not receiving advice from a Women's Legal Service earlier proved a barrier to leaving until a family member facilitated a referral to the high-risk team.

I did speak to [Women's] Legal Services two or three times – each time they said well we can't really advise you...I was like I don't even know where to start...Even a general 'try this' would have been super. Legal representation would have really been the dream, but they said because there's a chance you'll get money in the settlement you probably don't qualify. Well probably isn't today because today I have \$29 and that's all and I can't afford to hire a lawyer so that was very, very frustrating, particularly in the beginning when I was so afraid about leaving. I was so afraid of him finding out. And all the questions that I asked them - they kept saying you should talk to the police about that. Well I could, but what does the law say?

...women appreciate realistic advice—about the system, and the long haul ahead

Women appreciated realistic advice about the challenges ahead—or told us they would have liked realistic advice if they didn't get it.

In the quote below, one survivor spoke of the limits of the law as it stands, and her wish that the Women's Legal Service had explained that there's not much that can be done within the current legislative framework. The woman has reported numerous breaches of a protection order to police, but has struggled to get them taken seriously as a pattern of coercive controlling behaviour because there is no physical violence or overt threat.

I would have really appreciated acknowledgement that it does happen [coercive control] and it did happen and unfortunately even though it's not law at the moment – I needed to hear that. It's not law, they can't do much about it, but it's still wrong.

In the next quote, a survivor spoke of how frank advice early in her matter helped her to understand the limits of the protections that can be afforded within the family law system.

It was the solicitor from the Women's Legal Service who was very honest about Family Law and what it might mean. Before this...I thought that if I was able to

somehow prove there was domestic violence then my son could be supervised when seeing his Dad...I was shocked to find that wasn't true, but really grateful. If I had just left and then realised my baby wasn't going to automatically be protected by the Courts, I would have been devastated and blamed myself even more.

However, there is a fine line for community lawyers to walk. Part of the challenge may be identifying the right time to offer frank advice. In speaking with the two Women's Legal Services, we heard reflections from lawyers that if they were too pessimistic or frank from the outset, women may not feel sufficiently confident to leave the abusive relationship or seek protection.

Approaches to working with women experiencing coercive control

Relevance of the CARE model developed for use in health care settings

Reflecting on what survivors told us they valued about the support from the two Women's Legal Services, we note a strong alignment with the concepts embodied in the CARE model, which was endorsed by reference group members as a helpful framework for use by legal centres along with a focus on trauma informed practice and cultural safety.

The CARE model evolved from a study on *how* health care practitioners can best respond to women experiencing domestic abuse, emphasising that “‘getting a disclosure’ should not be the ultimate goal” (Tarzia et al. 2020). Systematic review of studies in this space led to the development of the CARE model encompassing:

- **Choice and control** – planting the right seed, providing options, encouragement and support rather than ‘fixing’ the problem, respecting women’s level of readiness and the complexity of the situation
- **Action and advocacy** – doing more than just listen, without this, women reported feeling abandoned
- **Recognition and understanding** – feeling heard and validated, not rushed or dismissed, this may include naming women’s experiences as abuse
- **Emotional connection** – recognising the importance of emotional support, feeling kindness and care, having patience with women and providing continuity of care where possible (Tarzia et al. 2020).

Women are struggling with multiple legal matters and a victim-reliant justice system

Distilling the varied stories of survivors, we heard of the stress and complexity of navigating multiple legal pathways, often without legal representation, while recovering from long term trauma and abuse (e.g. applying for protection orders, reporting breaches of or seeking variations to protection orders, negotiating parenting orders, pursuing financial and property settlement and divorce).

These stresses would be challenging for anyone. However, for some of the women we interviewed, these matters also provided avenues for continued abuse by the perpetrator, including financial costs, in line with research findings about legal systems abuse (Douglas 2018 and Douglas 2021).

As is common for people seeking help from community legal centres, many women we spoke to wished that the Women’s Legal Services could provide representation, or more coordinated assistance across multiple legal matters. In some cases, survivors had trouble recounting where they’d received assistance for the various legal matters they were dealing with. Again, this was consistent with recent Queensland research that found “women not only found it difficult to remember the kind of legal support they had for each problem, but there were discrepancies in the stage of the legal proceedings for which they had legal support.” (Douglas 2021).

[It was] very hard to think of both things at once. Financial and custody matters. [There were] incidents every single day. It so exhausting and stressful...[I have] Legal Aid but only for custody, not property and financial matters.

I also think the legal service needs to be able to manage the fact that we have Family Court, Protection Orders, Criminal Court - all at the same time - and that none of the systems talk to each other or seem to agree with what is happening. So, for me, at the time the police took the violence seriously, and then...I had the Family Court psychologist do an assessment of me where she...basically told me I was an unfit mother because of my intellectual disability and because I stayed in the abusive relationship. I asked Women’s Legal to help me fight her report in Family Court, but they couldn’t. They couldn’t even suggest how I can do this myself.

The problems with the Family Court have been extensively documented elsewhere, and while these are outside the remit of this research, we note the distress experienced by women when they realise that Women’s Legal Services don’t have the power to address these issues. Given the complexity of forms in the new merged Court, lawyers from the two Women’s Legal Service do not expect these matters to improve.

I hoped that WLS would help me tell the Judge why our children should not be in his care without a safe adult present. This is where I want to cry, because they [Women’s Legal Service] were so kind but whatever they could do it was never going to protect our daughters.

I’m very, very scared with the Family Court case.

I wanted help working out how to get my children protected from their father. I didn’t want them to have to grow up with his anger, his racist abuse and his violence. But really, he got all the systems working in his favour.

While some women appreciated or would have liked frank advice about the system as it is now, they also wanted services to back them to pursue criminal charges and breaches of protection orders if that’s what they desired. In one case, it was a female police officer that encouraged a woman to pursue criminal charges, not the Women’s Legal Service (she was successful in this, and the abuser is now in jail).

Again, I’m not criticising the Women’s Legal Service, I’m just pointing out that they are not here to change anything...I found the policewoman and her focus on what could possibly happen was like a life saver. So maybe the lawyers could find a way of being really honest but still shooting for the stars.

...[the Women's Legal Service] sent me back to the police for a breach of a DVO... the police won't take the time to read all the text messages to get the full picture.

Linked to this, two women spoke about the dawning realisation that they have to do this themselves. These reflections speak to the nature of a system that places the onus on victims to pursue justice. Perhaps equipping women with this knowledge earlier in the process would help them to be prepared for the long haul ahead. Even so, we note again the fine line between equipping women with realistic expectations while not discouraging them from seeking the protection available.

It happens over time, but there is an eventual realisation that it is literally up to you to get yourself out of it. To take action. Because the system is completely victim-reliant – that person has to have enough courage, consistency and determination to keep going. It would have been far easier to not do it.

This is what I know now – I had to be the one to get the evidence for the police. Most of the detectives don't have time. Or [they] think domestic violence is a waste of time. Instead, I needed to track down my medical records, the counsellors and other things that supported my claims.

Duty lawyers are pivotal

Four of the women we interviewed first encountered a Women's Legal Service via the duty lawyer service. Others also received duty lawyer support, but not necessarily on their first encounter with the Women's Legal Service.

Women noted the incredibly stressful nature of appearing in court, including experiencing physical illness when doing so. Almost all women spoke very positively of their experience with duty lawyers.

I actually met [name withheld] from [the Women's Legal Service] at Court. I was trying to get a DV Order, and I found out she could help me. Best day of my life!

I met them at Court for the first DV Protection Order. They were really nice, and you know, very professional.

[the Women's Legal Service] represented me through the DV Order application and we got everything I asked for.

[after filling in an application on the wrong form with misguided assistance from a DV service] The duty lawyer identified the application was on the wrong form and helped get it sorted and the Order varied.

A really nice lady from [the Women's Legal Service] sat with me and supported me through Court.

However, one interviewee felt she hadn't been listened to and the Women's Legal Service duty lawyer was too rushed to offer assistance.

The duty lawyer didn't listen to what I wanted to say [she said] let's knock this out by 3pm.

Another woman reflected that her entire trajectory after leaving her partner could have been avoided if she'd spoken to the duty lawyer on the day she agreed in Court to be named as a respondent in a cross-order, despite being already named as the aggrieved on a protection order. This story highlights the early intervention potential of duty lawyers, and the importance of duty lawyers making themselves known to women at the Court.

In the end, the prosecutor asked me if I would agree to a protection order that went both ways. The police told me this was no big deal, it happens all the time and they reasoned with me that I would never, ever mean to breach it, right? I mean I didn't want to go near him, and I wasn't about to pick a fight. I was so overwhelmed, I just said "Yes". Looking back, that was the day I should have spoken to the Women's Legal Service Duty Lawyer. But I didn't know who was who that day, where I should sit, what I should do. I was exhausted.

One woman spoke of a Legal Aid duty lawyer trying to schedule future Court dates on days when he would be at Court to give her continuity of support. Whilst this may be labour-intensive to offer as a matter of course, we wonder if this is something that community legal centres might consider for women who are extremely vulnerable and/or at very high risk.

Coordinated support and warm referrals benefited the women we spoke to

Many of the stories we heard underscored the high level of coordination and cooperation across the legal, domestic and family violence and health sectors. In many cases, warm referrals from refuges, social workers, hospitals or other health services were how women first found the two Women's Legal Services and, conversely, women reported the value of the Women's Legal Service providing warm referrals to other support services.

We note four women were assisted to access domestic and family violence supports and legal services by health care professionals – three whilst hospital inpatients and one by a private allied health professional. This underscores the potential for health justice partnerships to create facilitate access to support for women in settings where the perpetrator is not present.

In contrast, only two women had acted on cold referrals, while others noted how daunting it could be to receive lists of phone numbers and think about calling them when they were just trying to survive each day. This applied equally to women from English speaking backgrounds as well as First Nations women and women from culturally linguistically diverse backgrounds. Given the stress, exhaustion, disorientation and self-doubt that can result from coercive control, we suggest that warm referrals, rather than phone numbers and pamphlets, would be good practice for all women experiencing coercive control, regardless of other vulnerability factors.

I got too many pamphlets and so many referrals. I looked at them and decided I couldn't do any of it. The ones that worked were where people did the referral for you and got you started – the [Women's Legal Service] social worker was amazing.

When you're in this situation – you're so rushed off your feet with it, exhausted, you don't have chance to catch breath from one episode to the next. All of your energy goes into just getting through the day.

That really helped [a warm referral] as I might have been too overwhelmed to follow through.

The workers in the Women's Shelter took me to my first appointment at Women's Legal. And they were great.

Given that duty lawyers can be the first point of contact for some women, they could play an important role in making timely referrals to other support services or additional legal assistance services. This could be challenging given the fast-paced nature of the service, but we suggest that community legal centres should, if they don't already, establish timely warm referral systems for duty lawyers to use.

We note that one woman we interviewed had her first encounter with a Women's Legal Service via the duty lawyer but was not referred by this lawyer to any other services. The woman only became aware of additional legal assistance available from the same Women's Legal Service some years later, via a word-of-mouth referral. Whether this is an outlier incident or indicative of an area for systematic improvement we can't say based on a single case.

In another instance, a woman (who later went on to receive support from the high-risk team) was declined support from a Women's Legal Service. This woman was able to find a low-cost private lawyer with expertise in domestic and family violence matters who is billing below usual commercial rates. The woman was referred to this lawyer through sheer luck while contacting a local member of parliament about an unrelated matter. This emphasises the importance of maintaining referral lists for private lawyers willing to offer reduced cost or deferred billing for women who may have access (or potential future access) to assets but still need suitable expertise and consideration for safety.

One woman suggested that community legal centres could helpfully make referrals to trauma specialists, noting she had wasted time and been retraumatised by initially seeing therapists who were not specialists in this area.

[Tips for collecting evidence can help—and may bear fruit long after the advice is given](#)

Some women had not thought to collect evidence, either because they were too exhausted or not planning to leave in the early stages of the relationship.

However, some women had been advised by a Women's Legal Service or domestic violence service how to collect evidence safely (e.g. emailing records of incidents to a separate email address and deleting the sent message). These women could point to the benefits of acting on this early advice, while those that didn't get it wished they'd had that advice early. For one woman the evidence allowed her to successfully bring criminal charges of assault and torture years after she'd received the advice.

Women need to be told early on about the importance of evidence. I'm pretty sure it was the lawyer from Women's Legal that told me at my first Court case where I was being charged as the abuser that I should keep a diary. I told her that he would find it and read it. I think she suggested the email and that has been gold.

One of our legal subject matter experts noted the importance of evidence being preserved, including text messages and emails, financial records and credit card details (e.g. to establish a pattern of spending). The expert noted that screenshots or pictures can be used as evidence and suggested

these be entrusted to a friend or trusted person in the event the abuser deletes the evidence. He advised that women be given tips on how to safely collect evidence, being mindful of risks of spyware and surveillance tools perpetrators may have installed on their devices, cars or in the home.

Community legal education and outreach

Many of the women we spoke with had been supported by friends, family or community members to leave their abusive relationship. These people were often the first to express concern about their loved one. This highlights the importance of reaching allies and supporters with accurate information about where to get help and how to tackle difficult conversations. The Queensland Women's Safety and Justice Taskforce has similarly highlighted the critical role that bystanders can play in noticing abusive behaviours, expressing their concerns and linking people to assistance (Women's Safety and Justice Taskforce 2021).

In respect of specific community legal education, one woman noted she had received incorrect advice from a domestic violence service, which had put an application for a Domestic Violence Order on the wrong form. This created high stress when the woman presented to Court and the duty lawyer identified the error. If non-legal services are assisting women to complete legal forms, regular community legal education and supporting resources could be an important avenue to ensure these services provide accurate support and don't compound challenges facing women seeking protection.

Experiences with Legal Aid were mixed

Two women did not feel supported by Legal Aid. One felt that the Legal Aid lawyer was not listening to her and wanted to return to the Women's Legal Service for support. The other approached the Women's Legal Service after feeling that the:

Legal Aid team failed me in so many ways.

This woman felt that Legal Aid did not understand how her abuser was using the family law system as a tool of control.

This project was unable to investigate these concerns further, but we note that the Legal Aid funding model could mean that private lawyers are acting for women with a grant of Legal Aid and may not have an in depth understanding of the dynamics of domestic violence. The funding model may also place constraints on the time they are able to spend with clients.

Other women were grateful to receive Legal Aid but still found things challenging because the grant of Legal Aid did not cover all the legal matters where they needed support.

And of course, do no harm

While inadvertent, the consequences of thoughtlessness or mistakes by lawyers can be very high. Research has documented how the legal system can facilitate a perpetrator's efforts to search for a survivor via the legal system (Douglas 2021). In a particularly disturbing illustration of this, one woman had her address disclosed to the respondent by Independent Children's Lawyers on three occasions – each time necessitating a return to a shelter with children and a lengthy process of securing suitable rental accommodation in a tight housing market. Again, this experience speaks to the challenging, victim-reliant system where women are forced to take measures to ensure their own safety even when others make mistakes. Additionally, this experience impacted a Women's Legal Service, which provided advocacy on one of these occasions.

This happened three times in three years after I had left, and it made my life hell. It is so hard to find housing in a country city let alone as a single parent.

Another woman spoke of the disappointment of having her experience minimised by a lawyer, highlighting the importance of not making assumptions about the impact of a perpetrator's behaviour and instead allowing women to verbalise the impact for themselves.

I remember once at the lawyers she asked if he shouted at me and I said, "No" and she replied, "Well that's lucky then." But I wanted to be able to say I'd have preferred shouting – his coldness and dislike was more scary to me.

Another woman was angry that the Women's Legal Service judged her as being insensitive when she wanted to continue an appeal of a legal process after her abuser had a medical emergency.

When I first spoke to someone at [the Women's Legal Service] he'd had a [medical emergency]. They were saying you're out of line, they weren't understanding that I wanted to pursue it. I felt beaten, like I didn't have any support...[reflecting on what the service could have done better]. Don't make [people] feel guilty about not caring about the other party after...years of abuse. It's a long time...He stopped my life.

Theme 2: Police responses including breaches of protection orders

What women told us

- Women’s experiences were mixed – some very positive and in ways that afforded women safety and freedom, some extremely negative and with severe consequences.
- Barriers to calling police were reported by several survivors and reflect what is documented in the literature, particularly a fear that perpetrators or their families were friends with police.
- Negative experiences have downstream consequences for community legal centres.
- Police misidentification of three women as the respondent (two on an initial call out and one being pressured to accept being named as the respondent on a cross-order) had lasting and devastating consequences, including avoiding further help-seeking and enduring more violence, criminal charges for breaches of the order and loss of career and income.
- All three women misidentified by police had experienced severe physical and/or sexual violence – two including non-fatal strangulation. With proper investigation, police may have pursued criminal charges being laid against the women’s perpetrators rather than identifying women as the respondent.
- Two women’s experiences offer insight into how police and protection orders can be used by perpetrators to perpetuate coercive control.
- Women valued being supported by the Women’s Legal Services to report breaches of protection orders to the police. Those that did not receive support reported they had difficulty getting police to take the reports seriously – particularly for women who were experiencing more subtle forms of controlling and harassing behaviour.

Recommendations - for community legal centres

- Prioritise legal assistance for women who have been misidentified as the respondent to reduce the serious consequences arising from misidentification.
- Ensure all information resources and advice about protection orders alert women to the high risk of agreeing to be named as a respondent on a cross-order, and how women can get help if they find themselves under pressure to agree to this.

Recommendations for the two Women’s Legal Services

- Develop tips for reporting breaches of protection orders to the police, including how to document more subtle controlling behaviours, what to do if police do not take the reports seriously, explaining the cumulative and escalating justice system response to breaches, and alerting women to the high risk of agreeing to be named as a respondent on a cross-order, and how women can get help if they find themselves under pressure to agree to this.

Experiences with, and perceptions of, police are mixed – and this has downstream impacts for community legal centres

Women reported mixed perceptions of and experiences with the police. We recognise that this research is focused on practical ways that community legal centres can support women, however, we feel compelled to share women's stories of police interactions because they lend weight to the longstanding calls from the domestic violence sector that policing responses are inconsistent. While some are excellent, others, at their worst, cause extreme harm—and have downstream impacts for community legal centres working to respond within the context of the harm caused.

To start with the positives, one woman from a culturally and linguistically diverse background had a very positive experience, with police applying for the Domestic Violence Order and arranging financial support for the woman.

The police were really amazing...the prosecutor represented me in Court...they got all the evidence.

Another woman had received rapid and comprehensive support from a high-risk team, which included a police officer. In this instance, the woman was assessed as being at high risk because the perpetrator had previously worked as a police officer. The woman was assisted to leave the relationship safely and move into secure housing.

Some barriers identified by women are potentially difficult to address. Whether police would have provided a professional response in the case of the two women below is ultimately unknowable, but these barriers had real-world consequences for the women.

I never thought of contacting the police. I have always known that there are good police and bad police. Some officers are friendly with my ex and his family.

I knew police would not do it [apply for a protection order for the interviewee] because my husband played footy with the local cops.

These barriers identified in our survivor interviews are consistent with the research, and what we know about low rates of reporting abuse to police - 80% of all women experiencing domestic and family violence by a current partner never report the violence to police (Women's Safety and Justice Taskforce 2021).

Another woman did not contact the police as she feared being persecuted by authorities if her husband got the police involved.

I wouldn't call the police. He would be vengeful. It was easier to let things go. Blame gets twisted. He'd turn it around to make me look like a flip. He would threaten to call the police. I had to have the house spotless. I was terrified he would call child support.

One woman reported that the police had disclosed to the perpetrator that she had moved and the address to which she'd moved. She complained about this and had the complaint upheld, and now deals directly with the local police inspector.

Another woman reported that the police would not serve the ouster order to her abuser, instead suggesting that she herself ask him to leave, despite having a protection order in place and being at additional risk by virtue of being an older First Nations woman.

The police – I was very annoyed with the police. They had to serve the paper on him to get him out of the house...I rang the police and asked them to get him out of the house. The young constable said, “I know you’ve got a temporary order, but it doesn’t say you can’t contact him, so why don’t you ring him yourself and tell him to get out?”

While not a reflection on police, the involvement of extended family and social media was a factor in a First Nations interviewee noting that fear of technological abuse from the perpetrator’s extended family stopped her going to police as the family has a social media profile.

They would post awful things about me. I didn’t want to go through that [going to the police] – I couldn’t do it. I’d been through too much.

Misidentification as the respondent

Misidentification by police can be devastating...

Two of the women we interviewed were misidentified as the respondent by police on their first interaction with the police. Both were situations where the women were distraught from sustained violence and the perpetrator was able to present calmly. In both cases, the women had experienced non-fatal strangulation – meaning both were at high risk for lethality and in both cases, police could have pursued criminal charges against the perpetrator had they obtained an accurate history from the women. Instead, both women were named as the respondent and the consequences were severe.

In the first case, the police response caused the woman not to seek police help again, instead enduring the violence quietly to avoid neighbours calling the police.

The kids...called the police one night after he’d [the perpetrator] strangled me until I passed out...When the police came, I was coming back to consciousness. They assumed I was drunk. He told them he was protecting himself because I was so abusive towards him...I couldn’t find the right words to explain that he was lying, and I got angrier and angrier. I screamed at the cops that he was a liar and so they charged me with abusing a police officer in front of my kids...After that my kids knew never to call the cops. I was always careful not to scream or cry even when he was kicking me in the guts while I was on the ground or stomping on me. I would go into a zone and just try to get through it as quietly as I could so the neighbours didn’t hear or call the police.

In the second case, a woman misidentified by police as the respondent has been subsequently charged with breaches of the order after returning to the perpetrator in circumstances where she was homeless, on a temporary visa and the perpetrator had offered to help her. Due to these criminal charges, she won’t be able to practice in her profession and her visa may be cancelled.

I can never go back from that. There are no systems where you can appeal. You can’t take the Court cases back. Those charges will be over me for the rest of my life

because of that first day [when police misidentified her as the respondent, despite subsequently naming her as the aggrieved].

...but one positive police interaction can be life changing

It should be noted that both of the women who were initially misidentified by police spoke of the transformative experience of later encountering female police officers who believed them. For one woman, the female officer applied for a protection with the woman named as the aggrieved rather than the respondent.

That officer listening to me changed everything – I felt like a phoenix rising from the ashes after that moment. People were starting to believe me.

In the case of the second woman, a female police officer found a pretext to safely remove the woman from the abusive situation and over time encouraged her to pursue criminal charges, which were successful – with the perpetrator now in jail.

...the lady police officer...did more for me than any social worker or lawyer because she believed in me. She also kept saying we needed to focus on the possibility not the likelihood. She meant that rather than just accepting he was unlikely to get jail time I should focus on that this was the only chance that he might get jail time. If I gave up, then nothing would change.

Both women were also assisted by a Women's Legal Service to obtain protection after they had been misidentified by the police.

Perpetrators can use police involvement and protection orders as a tool of control

Among the fifteen women we interviewed, we heard two cases of women being misidentified as a respondent at the instigation of the perpetrator and, in one case, with the encouragement of the police.

One woman, from a culturally and linguistically diverse background and with limited English language proficiency, had experienced emotional and financial abuse over a period of years by her husband and his family. The husband contacted the police and had her admitted to the secure unit of a hospital on the basis she was psychotic. The doctors assessed that she was not experiencing psychosis. The perpetrator later applied for a protection order with the woman named as the respondent, alleging she was unwell.

When I received the DVO I was shocked. I was afraid...I would never have imagined he would take a DVO out against me.

The Women's Legal Service assisted the woman to apply successfully for a cross-order in which she is named as the aggrieved.

The second case, a First Nations woman, was initially identified as the aggrieved, with police applying for a protection order on her behalf. However, in Court her partner challenged the application, at which point the police pressured her to accept a cross-order. This has had devastating consequences.

...because I said, "Yes" in a moment of weakness to the suggestion of the two-way DV order, I lost my house that I worked hard to do up, clean and raise my babies in. I lost my job and my career...I've lost so much.

Domestic Violence Orders

Breaches of protection orders aren't always pursued

The domestic violence legal framework in Queensland is predicated on an aggrieved party receiving protection via a civil protection order, also known as a Domestic Violence Order. Breaches of the conditions on the order constitute a criminal offence and thereby offer an escalation option and afford the aggrieved party an opportunity to seek additional legal protection. In practice, this is not the experience of all the women we spoke to.

Two women reported frustration with police not acting on breaches or not taking time to look at emails or texts as evidence of non-physical breaches. One had evidence of hundreds of incidents that police did not look at.

Police don't take time to read all the text messages to get the full picture. If he came and did something to me, it would be easier...On the protection order it has 'no coercion or emotional abuse' – to prove that takes a lot. Even though I have it...all in text message, all in emails, they [the police] said it will be hard to get through a magistrate. Even though it's on the protection order – it can't be enforced.

Police won't pursue breaches because they say the magistrate won't recognise the breaches. The DVO allows so many outs...no context [is] taken for anything...police [are] minimising things – they'll say [to the perpetrator] "No worries mate. You were just there to see the kids."...Everything is taken as a one off incident...[there's] a 12 month catalogue of his behaviour around the children.

Long experience of police and judicial responses to breaches of Domestic Violence Orders can also shape the legal advice given to women.

[Women's Legal Service advised]...there is no point breaching him every time because the evidence wasn't going to stand up in Court. I'm like, my shoulder is completely ripped out of its socket, I am bruised badly around my guts, my ribs are broken and that's not evidence? But they explained - because in the past police had thought I got injured falling down when I was drunk, and that I'm known as the angry bitch who just goes off - well it wasn't worth it.

Another woman was not supported by the Women's Legal Service to pursue breaches but was instead referred to the police to report it – the police have not acted on any of her reports. The reality for both Women's Legal Services is that they do not have capacity to support women to report breaches, because it is such a common occurrence it could consume all their resources, therefore advising women to report breaches directly to police is standard practice. Sometimes Women's Legal Services will support women if the police don't accept the report. In either case, there is an opportunity to develop self-help resources to assist women to report breaches in ways that police are most likely to take seriously. This could also assist women to understand the escalating nature of civil protection orders, and that even if the breach is not pursued by the police as a criminal offence, reporting the breach builds evidence of a pattern of abuse.

Two women reported the relief of being supported by the Women’s Legal Service in reporting breaches.

He has breached repeatedly, and the lawyers have been fantastic, working above and beyond to lodge breach notices and helping respond to 17 page email rants that are abusive and unnecessary.

The Women’s Legal Service helped me understand what I needed to do if he didn’t follow the Protection Order. And twice they rang police for me when I was in the office with them. When I am frightened, I find it hard to communicate clearly in English. [the lawyer] said this should not be a barrier to safety.

One of the subject matter experts we spoke with works in the Specialist Domestic Violence Court. Beyond fulfilling the threshold issues to grant a protection order (relevant relationship, an act of domestic and family violence and whether the person is in need of protection), the expert made the following observations about protection orders:

- Orders are difficult to grant if statements are too general. For example, to allege a course of conduct over time such as gaslighting, some particulars would need to be provided with dates and specifics.
- It’s helpful to frame applications as “I believe I’m being stalked because...” and give specific examples, rather than describing general behaviours and relying on the Magistrate to infer the behaviour being alleged. The detail is critical because it allows a Magistrate to give a hearing if they have this.
- The more serious an allegation, the greater the standard of evidence needed, albeit not to a criminal standard. For example, if physical violence is alleged, details of the incident, doctor’s reports and photos would be needed.

Other ideas beyond the remit of this project

Additional suggestions – legal sector

We asked women for ideas about what else community legal centres could do to support women. We include these suggestions for completeness. When women struggled to answer this question, we asked them to imagine they had a magic wand.

Many women responded that more lawyers and more assistance with their complex legal matters and/or court attendances would help, including Family Court matters. One woman thought legal services could better prepare women with an understanding of the Court process and serving of a Domestic Violence Order, while another noted her experience of cursory engagement by barristers.

If I could wave a magic wand, I would make sure that the lawyers they have now are cloned so there are lots more of them.

If I had a magic wand there would be more solicitors like [names redacted] and the phone lines would be available 24/7 as it is almost impossible to coordinate legal advice with single or shared parenting, work and other demands.

[Women’s Legal Services] could help with going back to court for DV incidents.

It is never going to be safe to leave if there is no proper legal help for the Family Court. Someone like me with kids can't leave if they know the kids are going to be forced to live with their Dad every second week. And so we stay to protect the kids even though seeing or hearing the violence is so bad for them. This could change though if there were enough lawyers to work with every victim in the Family Court for as long as needed to make sure the Judge gets to hear about the violence. We need the lawyers to stand up against those Court psychologists.

If our children are the only witness to what I've endured, then it places their lives in danger to make statements against their father. I'm in a no-win situation; without my children's statements, there is no easy evidence of abuse.

...no matter how good and caring the lawyer at Women's Legal Service is, at the end of the day they just brief a barrister for the court. That barrister usually looks over the brief like five minutes before going into court. At first, I thought it was a joke. But I've heard the same thing from all the other women I've spoken to. This barrister didn't even know my name or the names of my kids and really had no clue. That needs to change.

Additional suggestions – beyond the legal sector

Women's answers also branched out beyond the remit of the legal sector and this project, but we have captured suggestions here to do justice to the thoughtful responses we heard.

Cultural barriers to engaging in the adversarial court system and assertively asking for help were noted by a woman from a culturally and linguistically diverse background.

As someone who is not white, I think it needs to be made clear to women who are not white Australian that they can really argue for evidence to be collected. My culture is so much more careful and considered. Yes, maybe polite. This means the current court system is terribly hard for us.

Other ideas from the women we interviewed included:

- Support groups for women to talk with other survivors:

It's a shame there's not a support group or something. I had been so isolated. There's a few friends I would talk to on the phone, but they would say "Don't talk about that, it will only upset you." But you do need to talk about it. I probably needed some sort of support group. You do need to sit and talk to other people.
- One-stop shops where women could go with counsellors, court workers, lawyers and health care professionals
- A secure system where victims can find out court outcomes (e.g. was bail granted) as it can be very difficult to find out what happened in court if you can't or don't want to go there
- Doctors being trained to document injuries that could be from abuse (the woman who suggested this had been unable to use medical evidence in criminal proceedings)

I have so many records of doctor visits until the doctor then threatened to report the violence to Child Safety to protect my children...later when I did take him [the abuser] to Court...I was sure that there would be something in the notes about the doctor telling me I was in domestic violence and that he was going to call Child Safety. But there was nothing.

Part 4: How community legal centres can support diverse client cohorts

We have not distilled the following tips into a set of recommendations, as many of the ideas for each client cohort are unique. However, we will work with the two Women’s Legal Services to incorporate these ideas into a fact sheet for community legal centres as an additional output of this project.

Supporting First Nations women

We interviewed two First Nations subject matter experts, along with input from expert reference group members, and have synthesised their insights below. This is supplemented with insights from the literature and with supporting quotes or observations, where relevant, from First Nations survivors who we interviewed.

Offering culturally safe and accessible services is critical given the very high overrepresentation of First Nations women experiencing domestic violence, with higher risk of severe injury – and knowing that, based on the 2020 survey by the Australian Institute of Criminology, this overrepresentation is mirrored in the experience of coercive control amongst First Nations women. Suggestions from experts include:

- Be cognisant that First Nations women may experience abuse within a wider range of extended family relationships, and a First Nations woman who approaches a legal service for advice may have already overcome significant barriers, including going against family and friends in order to seek help.

In our interviews with survivors, one First Nations woman had experienced coercive control perpetrated by her partner and his extended family, whilst another had experienced coercive control by a sibling who had isolated her from other siblings and extended family.

- Be mindful of the importance of investing time in conversations to create safety for First Nations women, along with asking questions in everyday language, recognising that legalistic language may present an additional barrier to disclosure and help-seeking behaviour. One subject matter expert suggested using colloquial language questions such as ‘Does he start bagging you out?’ or ‘What does it look like when he’s on the grog?’ One of the First Nations women we interviewed said:

When they wanted to do the affidavit – I spent all day there. There was no rush. I was able to remember everything. I wasn’t pushed for time. We talked over things. So I was able to recall lots of things. They made me feel comfortable and that I did matter, and I was not what he said about me. (First Nations client of a Women’s Legal Service)

- Experts and a First Nations survivor noted the importance of having First Nations staff members – lawyers, cultural support officers, paralegals or reception staff. Ideally these staff would contribute to community legal education also, having connections to, and standing in, the community. One First Nations survivor said:

...it was so hard to sit there and admit to this pretty white lady who has been to university and probably had a perfect life that I'm in this mess. Because I carry the cultural shame too. I want to yell "This is not me. This is not my culture. A white man did this. I don't drink alcohol and never have. But he does all the time." In the end, I think too that it would be good to have a cultural support person there, so someone like me is not the only black person in the whole office. (First Nations client of a Women's Legal Service)

- Experts echoed barriers to seeking help that are documented in the literature for many First Nations women including mistrust of police, fears for the safety of the perpetrator (if incarcerated) or for themselves (if police arrest them), and fear of the involvement of child protection (Langton 2020).
- First encounters are critical, with First Nations women likely to lose faith quickly if turned away from a service or not supported and believed on their first attempt to seek assistance. Linked to this, consider first impressions for a client accessing the service – aim to offer a welcoming, non-clinical and relaxing space e.g. offer tea and coffee or food if someone is hungry and provide toys and activities for children.
- Recognising the impact of social and systemic racism was also identified in interviews with subject matter experts and the literature (Women's Safety and Justice Taskforce 2021). This was explicitly discussed by one First Nations survivor whose non-Indigenous abuser had her named on a cross-order and used this to create an institutional story of him as the victim across the Family and Magistrates Courts, Centrelink, financial institutions and other legal services.

...he got all the systems working in his favour...And he gave such a good act they fully believed him. I have to say this is classic white bias right here and now. And that hidden racism. (First Nations client of a Women's Legal Service)

Are community legal centres offering the right model?

We interviewed an experienced First Nations community lawyer who questioned the appropriateness of the community legal centre model for First Nations women. In contrast to episodic, quick advice sessions or limited case work, the lawyer noted that in specialist Indigenous legal services, centres typically offer flexibility, do not have set appointment times, invest time talking to clients for as long as they need help, provide ongoing legal assistance, including representation, and link clients with support workers for ongoing support. She noted the challenge in building trust with clients, saying that

Advice and a bit of case work is not enough. It's hard enough to build trust with clients...It [the community legal centre model] just doesn't work. (expert)

First and foremost, this underscores the importance of adequately funding specialist services in line with Priority Area 2 of Closing the Gap – building the community-controlled sector, and part 15 of the National Legal Assistance Partnership, to support the delivery of Aboriginal and Torres Strait Islander specific legal assistance services consistent with self-determination. However, there remains an imperative for generalist legal services to offer culturally safe and inclusive services, for those clients who may be 'conflicted out' of a specialist Indigenous legal service (as happened with one of the First Nations survivors we interviewed) and for those who prefer to access a generalist service.

The need for culturally appropriate legal assistance will only become more urgent if coercive control is criminalised, given the risks of First Nations women being misidentified as the respondent, and breaches of civil protection orders already being a major pathway for First Nations women into the criminal justice system (Douglas and Fitzgerald 2018).

Whilst redesigning community legal centre service models is beyond the remit of this research, there is nonetheless much that generalist centres can do to create welcoming and culturally safe spaces for First Nations clients, particularly offering flexible access, investing time in conversations, creating identified positions in the workforce and creating a welcoming physical space.

Supporting women from culturally and linguistically diverse backgrounds

We spoke with two experts from culturally and linguistically diverse backgrounds, along with expert reference group members, and have synthesised their insights below, supplemented with some insights from the literature and observations, where relevant, from the five women from culturally and linguistically diverse survivors we interviewed. Suggestions from experts include:

- Be cognisant that, where abuse is present, other family members, particularly a woman’s mother-in-law, or other community members, could be involved in perpetrating abuse. This was the case for two of the survivors we interviewed and the experience of multi-perpetrator violence is also documented in the literature (El-Murr 2018). In faith-based communities, shaming or spiritual messaging may be used to discourage women from leaving the relationship and women may not know their rights. One subject matter expert explained:

If we don’t see those patterns, we assume if we eliminate this one person the problem is gone – but subtle abuse continues in the broader community and extended family. (expert)

- Listen to and work with women to understand who they can trust, particularly where women are part of a small cultural community. We heard the following cautionary case from Victoria:

The domestic and family violence service sent a woman to a hotel in a taxi. The woman didn’t recognise the taxi driver, but he was from the same community and he went back and told her abuser where she was. (expert)

- Be aware that abuse may take different forms e.g. honour based violence, threats of deportation/visa abuse, threats of child removal or dowry abuse. The isolation resulting from coercive control may be heightened by language barriers or lack of connections outside a woman’s cultural community. Additionally, women may not understand their rights in Australia.
- Involve specialist services working with women from culturally and linguistically diverse backgrounds in training delivery for lawyers so participants can ask real life questions, deepen understanding, and develop memoranda of understanding with these services to provide coordinated supports or priority referrals.
- Questions may need to be explained more fully as they may not be understood by women whose first language is not English. The example given by one expert was:

For example, this woman came to us. She is very smart, she has a Master’s in software. There is a question on the risk assessment: “Has he ever choked you?”. She had said “No”. But previously she explained to me that he held sharp cardboard against her neck and held her to the wall. But she didn’t understand this was choking. You have to explain the question – you can’t be happy with yes or no answers. You have to pick it up. (expert)

- Actively pursue employment of workers from diverse cultural backgrounds – lawyers, reception or intake staff, paralegals, cultural support workers.

It makes her feel more comfortable if she sees someone who looks like her and speaks the language. Some are embarrassed to say certain things, cultural things, worried about judgement about culture. Most migrant women have no confidence when talking to a white person. Coming from a colonised country – white is seen as superior – it feels somehow superior. Women worry that they (white person) won't understand or will look down on them. That's what the research says too. (expert)

- Allow longer and repeat appointment times as it may take several meetings for women to identify they're experiencing coercive control.

Don't accept what the woman says at face value – the woman often doesn't acknowledge what is going on – they just tell you a little bit – you need to ask softer questions, slowly, slowly you'll get there – after an hour and a half. Take plenty of time. (expert)

- Similarly, disclosure of intimate details such as sexual abuse is likely to require several conversations to build trust, along with an explanation that sexual abuse can occur within marriage.

Mostly disclosure of sexual abuse won't happen in the first two meetings – most women will be embarrassed. You need to develop trust. People don't understand sexual abuse. The question 'does he force you to have sex' – most women think it's okay in a marriage. You need to ask, "how do you feel about it?" It is a conversation – not direct questions. (expert)

- Be mindful of additional risks that refugee and migrant women may be misidentified as the respondent (as occurred with one of the women we interviewed), 'blamed and shamed' by their community, have limited choices due to visa restrictions and be concerned about threats directed to family members overseas that fall outside the jurisdiction of Australian law (Maturi and Munro, 2020).

Supporting women with disability

We spoke with two experts with lived experience and/or expertise in disability and domestic and family violence and have synthesised their insights below, supplemented with some insights from the literature:

- Be aware of the additional tactics of coercive control that may be used against a woman with disability whose abuser may also be her carer e.g. withholding care, equipment or medications, damaging or not charging equipment she depends upon for wellbeing and independence, isolating women from services or supports, financial abuse including of NDIS packages and income support, or coercion to take out loans.
- To identify that someone has disability, follow gentle lines of inquiry rather than direct questioning e.g. "Where did you go to school?", "Did you get any extra help at school?", "Do you get a Centrelink payment?" - if yes, try to identify what type of payment, potentially revealing whether they are on a disability pension, "Is there anyone who gives you any help/support?", "What sorts of things do they help you with?"
- Be cognisant that women with disability can become skilled at masking when they don't understand something, so take care to confirm their understanding. Additionally, allow time to explain abstract concepts and have resources available in Easy English.

- Be flexible if women are early or late to an appointment and allow time to build trust, show kindness and allow a woman to tell her story in her own words, without too many pre-emptive questions.
- Communicating the concepts of coercive control to women with disability can be difficult because having many areas of their life being controlled by others can be a normalised experience for people with disability generally. It can be very difficult for people with disability to appreciate that something is wrong.
- Linked to this - whilst it's good practice to encourage the attendance of a support person, be alert to whether the support person also exerts control e.g. speaks over the top of the client, makes assumptions about their wants and needs etc. As with working with an interpreter, remain focused on engaging with the client rather than the support person.
- If assisting a woman with intellectual disability to apply for a protection order, explain the behaviours during the drafting process e.g. "Stalking is..." and provide examples of what this behaviour looks like.
- Support women to recognise the danger of returning home and disclosing to their abuser the discussion they had with the legal centre and the advice they received, as some women with disability may not recognise this as a risk.
- Consider warm referral arrangements or memoranda of understanding with local disability advocacy services, including an arrangement to have an advocate from the service attend appointments for women who don't have another appropriate person, and if the woman is willing for an advocate to attend.
- Finally, we note that one expert raised the prevalence of disability amongst perpetrators as well as survivors. This reinforces the importance of Easy English explanations of the law, and legal processes, for both perpetrators and survivors. This expert suggested that all actions in the domestic and family violence space need to be reconsidered and redeveloped through the lens of disability, with particular consideration of acquired brain injuries, foetal alcohol syndrome, low literacy and the effects of trauma.

Supporting older women

We spoke with an expert in the field of elder abuse, much of whose feedback was a reflection on the limited scope within the existing legislative framework in Queensland to capture elder abuse. For example, while informal care relationships are captured in the domestic and family violence legislation, neglect is not within the scope of behaviours that would allow someone to seek a protection order.

The nature of legislative reform, and the limits of the existing legislative framework, are not within the purview of this research. However, we do note that any consideration of legislative change in Queensland presents an opportunity to better capture the different forms of abuse that may be experienced by older women, beyond intimate partner relationships. We also note that the first discussion paper released by the Queensland Women’s Safety and Justice Taskforce is silent on the differential risks and experiences of abuse for older women, and this may be an issue that warrants further consideration by the Taskforce before it finalises its recommendations to government.

Within the scope of existing policy settings, the expert suggested that any training for lawyers should take a life course approach to consider the different experiences, risk factors and impacts of abuse at different life stages and in different relationships (e.g. intimate partner, family member, informal carer), and recognise intersectionality.

Our interviews with older women did not uncover any additional considerations for legal centres beyond those already reported.

Supporting LGBTIQ clients

We spoke with an expert in the field of working with LGBTIQ clients, and have synthesised their insights below, supplemented with some insights from the literature. We note that a limitation of our research was only interviewing one woman who identifies as LGBTIQ, and her abusive relationship had been heterosexual. Despite best efforts, the Women’s Legal Services were unable to put us in touch with any other women identifying as LGBTIQ and so this is a limitation of our survivor interview findings. Insights from the literature and our expert interview include:

- Be aware that abuse may be perpetrated by a person’s family of origin, and may not be limited to intimate partner violence.
- Be aware that the tactics of coercive control may be different e.g. threatening to ‘out’ someone to family, friends or community.
- Use non-gendered language and avoid bringing assumptions or judgements to questions.
- Be aware that LGBTIQ people may fear discrimination or not having their abuse understood by mainstream services (Women’s Safety and Justice Taskforce 2021). Historical experiences of mistreatment, brutality or discrimination may be barriers to seeking police protection or acting on referrals to faith-based support services. Where possible, referral to specialist LGBTIQ services or secular mainstream services is recommended.
- Recognise that LGBTQ people may have internalised shame and myths around gender stereotypes, which may make it harder to recognise or disclose abuse, coupled with potential feelings of pressure to appear to be a healthy couple and avoid feeding negative public narratives around identifying as LGBTIQ.

- Consider having priority warm referral arrangements to other legal support services where LGBTIQ people are conflicted out of a service due to their abuser already having accessed the service. Whilst Women’s Legal Services are often a reliable fallback for women whose male partners have accessed other legal assistance services, this may not be the case for couples where both parties identify as women. Concerns about privacy may also be an issue for LGBTIQ clients in small towns, and warm referrals to Statewide or other legal assistance services outside the town may be of assistance in this scenario.

Part 5: Suggestions for training

Key findings

- Training for lawyers and undergraduate law students has been previously recommended in the Not Now, Not Ever report and efforts to date could be further built upon.
- Given the prevalence of coercive control amongst the general population, and its interplay with family dynamics and legal matters, training should be offered for undergraduate law students and practising lawyers and encompass:
 - basic skills in recognising, responding and referring appropriately if a client makes a disclosure of coercive control; and
 - technical skills in providing appropriate legal assistance, including understanding how the dynamics of coercive control can impact on legal matters and the complex intersection of domestic and family violence, family, criminal and children’s court matters.
- As a starting point, potential content and methods for inclusion in training are noted in this section.
- Training for police and magistrates is recommended repeatedly in the literature and in numerous inquiries and reviews across Australia, and the need for this was underscored by expert interviews and some of the survivor stories presented in this report.

Recommendations

- Training for undergraduate law students and practicing lawyers be pursued in line with the suggestions in this section
- Note that this research further validates previous recommendations for training for police and magistrates.

Training for lawyers

We recommend training for lawyers across the legal sector, recognising that community legal centres are just one, albeit important, part of the legal assistance sector. All elements have a part to play in supporting clients affected by coercive control, whether lawyers are working in private practice, Legal Aid, community legal centres or specialist legal centres.

Below are training suggestions which are offered as a starting point for further consultation and testing. We conclude by noting Queensland universities that may be well poised to contribute to the design and development of training and offer expert guidance on suitable content.

In presenting the following suggestions, we note that development and delivery of training as suggested in our report would support the following recommendations from the *Not Now, Not Ever* report.

- Recommendation 110: “that the Queensland Law Society encourages lawyers engaged in domestic and family violence law (whether representing perpetrators or victims) and family law undertake continuing professional development in diversity and ethical conduct for managing intersection of domestic and family violence and family law.”

Our suggestions could build on the work already done by the Queensland Law Society e.g. the Domestic and Family Violence Best Practice Guidelines and professional development seminars.

- Recommendation 65: “that the Queensland Government works with universities to identify suitable ways to incorporate into professional undergraduate courses, education and training on how to identify when domestic and family violence is occurring and how to appropriately intervene”.

We note in the implementation progress report that the Queensland Government has pursued education and training on domestic and family violence in teacher training, but does not appear to have pursued this in other professional undergraduate degrees as envisaged in Recommendation 65. We note that in the *Not Now, Not Ever* report, the case study used to illustrate Recommendation 65 was in fact training for undergraduate criminal law students.

The basics - training to recognise, respond and refer appropriately

One of our subject matter expert interviews identified an initiative developed by the James Cook University Schools of Dentistry and Social Work, in partnership with the Cairns Regional Domestic Violence Service. The initiative provides scaffolded training for undergraduate dentistry students as well as continuous professional development opportunities for practising lawyers. The project is profiled in Appendix 4.

This could be adapted for basic training for undergraduate law students and practising lawyers in confidently recognising, responding, and referring appropriately to disclosures of domestic and family violence, with a focus on recognising the signs of coercive control, which may or may not include physical violence. Despite the obvious differences between dental and legal practice, we note similarities in the environment of time-pressured consultations and neither profession being trained in counselling or therapeutic responses to people experiencing domestic and family violence. We therefore suggest that this model could be useful to consider, particularly the critical success factors which included involvement of a local specialist domestic and family violence service.

Experts suggested the following components of training, which should include specific attention to coercive control in all of the following elements:

- basic skills in recognising, responding and referring – including sensitive inquiry
- social theory, including understanding the dynamics and causes of domestic and family violence and trauma informed practice

- understanding how family dynamics and domestic and family violence may intersect with a range of legal matters
- managing clients (whether perpetrators or victims) from a social justice perspective (such as not endorsing the perpetrator's view)
- managing professional conduct requirements in this context, including when lawyers can and can't make a report
- risk assessment and safety planning
- self-care.

We suggest training could be made available for the future and existing legal workforce – that is, embedding scaffolded training in undergraduate law degrees and delivering continuous professional development training for existing lawyers. Ideally this training would not be limited to family or community lawyers, as coercive control can intersect with many other legal areas where lawyers may not readily recognise its significance e.g. if there's a legal issue connected to family dynamics such as in wills and probate and conveyancing. In this regard, we note that one of the survivors we interviewed described being deceived by her husband into signing a will in which one of her children was no longer named as a beneficiary.

This basic training should address the foundation skills needed to pursue sensitive inquiry in a trauma informed and culturally safe way and to respond appropriately, both on an emotional and professional level. This would be relevant to lawyers in almost any field of law, given the prevalence of coercive control in the general population and the potential for its impact to be reflected across diverse legal circumstances.

Technical skills – training to provide appropriate legal assistance

We further suggest that technical training be provided for lawyers, recognising that understanding the dynamics of coercive control is central to the provision of safe and appropriate legal assistance. This is most obviously relevant for family and criminal lawyers, where understanding the intersection of domestic and family violence, family, criminal and children's court matters is essential, particularly the gaps and risks this can pose to victim-survivors.

We note that Women's Legal Service Victoria offers a beginner and advanced course in family law and domestic and family violence, along with a duty lawyer intensive training course. These may offer a useful starting point for developing and adapting courses to suit the Queensland legislative context and with a particular focus on coercive control.

We are also aware that Central Queensland University has an intention to invite specialist domestic and family violence and community based legal services to form a partnership for the delivery of scaffolded domestic and family violence training in the undergraduate law degree. The university advised this could only be taken forward with funding, as the development of such a program would be resource-intensive, as noted in one of the challenges of the unfunded James Cook University program for dentistry students.

These may provide ideas for providing technical skills training to both the future and current legal workforce.

Additional considerations

Whatever model is considered, the team involved in the James Cook University training noted the importance of having trainers who:

- are trauma-informed
- have a strong practice background in domestic and family violence service delivery
- are able to engage participants who may be reluctant and/or who may themselves have experienced violence.

Consideration of inclusive content to equip lawyers to respond to a diversity of clients would also be important, as would involvement of specialist domestic and family violence services in the design and delivery of training (see also Part 4 where we note considerations for specific client cohorts).

Drawing on insights from our subject matter expert interviews, we note the following content and methods that could also inform the development of training for lawyers:

- The UK SafeLives program for police and first responders was highly regarded by many experts we spoke with. The program looks at coercive control in its totality rather than specific elements of abuse such as financial or physical abuse, was developed by a peak body with survivor input, and has been internally evaluated. The content draws powerfully on survivor statements and experiences, while the approach draws on critical mass theory to embed the training sustainably across levels of the police hierarchy. Expert interviews identified the importance of asking questions about the impact of a perpetrator's behaviour, which can be very different from questions designed to elicit details of specific incidents (see text box page 21 for sample questions).
- Women's Legal Service Tasmania produces a podcast, Rule of Thumb, which explores the difficulties faced by women navigating the family law system. Season 2, Episode 2 is about coercive control and could be a useful addition to training for lawyers.
- Reviewing legal cases was also suggested as providing important learning opportunities for lawyers and is consistent with the training methods used in the profession. This was suggested as a way of equipping lawyers to identify signs of coercive control in a legal context.
- Content contextualised to legal settings is also available in the Queensland Bench Book, authored by Professor Heather Douglas, with additional content on coercive control anticipated to be available in the future.

Other suggestions that emerged from our expert interviews, that could complement technical training for lawyers, would be a suite of tools including:

- Templates for the construction of orders, detailing behaviours and how to particularise coercive control. This may be particularly helpful for behaviours that do not involve physical violence or overt threats.
- Fact sheets about coercive control (this will be a deliverable of this research project)

- Having a risk assessment tool (note this research recommends training in recognising, responding and referring rather than implementing a risk assessment tool at this stage).

Training for magistrates and the police

The literature repeatedly highlights the importance of training for the police and judiciary in responding effectively to domestic and family violence. One researcher analysed the repetition of recommendations for further education of police, lawyers and judicial officers in Australia and was able to cite six different inquiries with recommendations of this nature between 1981 to 2016 including: the New South Wales Taskforce on Domestic Violence 1981, the Law Reform Commission (ACT) 1986, the Australian Law Reform Commission and New South Wales Law Reform Commission in 2010, the Special Taskforce on Domestic and Family Violence in Queensland 2015 and the Royal Commission into Family Violence Victoria 2016 (Wangmann 2020).

Training for police and the judiciary was also identified in recent ANROWS research in the context of investigating and presenting evidence of coercive control and violent resistance within the existing legal framework (Nancarrow et al. 2020).

Our expert interviews echoed these calls for training, noting that training for the judiciary in perpetrator tactics and systems abuse would be particularly valuable. Experts identified a possible model in the form of training delivered by the Judicial College of Victoria. The two-day training, called intimate terrorism training, is for magistrates and is about coercive control. The training covers not just what coercive control is and how it affects victims but also how it's used by perpetrators, how survivors will look on the stand, and how perpetrators will present.

These calls are echoed by two of the survivors we interviewed, and the survivor stories which illustrate instances of inappropriate policing and a reported reluctance of magistrates to recognise breaches of protection orders.

The judges and the other lawyers in the system need training to understand DV better.

I've come across some good [police] officers, some untrained and condescending – overall it's a culture that needs improving, education and training.

In addition to training, we note research which identifies the potential for rethinking policing models and workforce roles. ANROWS has proposed in previous research the use of specialist co-responders at the first point of contact to assist police in distinguishing between coercive control, violent resistance and fights. ANROWS argues that it is not reasonable to expect police to have the necessary expertise to assess tactics of coercive control (cited in Nancarrow et al. 2020). Research by the Queensland University of Technology about women's police stations in South America also offers options for rethinking workforce and first responder models to gender violence (Carrington, Sozzo and Ryan 2020). However, systematic review and comparison of these proposals is beyond the remit of this project.

Part 6 – What are the implications of criminalising coercive control?

About this section

Part 6 reports on the potential implications of criminalising coercive control for community legal centres and the wider justice system, based on subject matter expert and survivor interviews. This research does not provide a view on whether coercive control should be criminalised. That is a subject for public debate and is the explicit remit of the Women’s Safety and Justice Taskforce (the Taskforce). As this remains under consideration, Part 6 does not include specific recommendations.

Key findings

- The literature and overseas experience highlight the importance of long lead times and training across professions before enacting an offence of coercive control.
- We were unable to gather data about demand for community legal assistance in the United Kingdom as a result of introducing an offence of coercive control, but note there has been minimal impact in Tasmania because so few charges have been laid. In theory, impact should be minimal as police would prosecute the case.
- However, a major concern associated with criminalising coercive control is the risk that women may be misidentified as the primary aggressor. The misidentification of women in civil protection orders is already an issue in Queensland, but the implications could become more serious if women face criminal charges erroneously. This could also increase demand for legal assistance to defend criminal charges (noting that neither of the two Women’s Legal Services currently has a criminal law practice).
- Concerns about misidentification of women as the primary aggressor were shared in the United Kingdom and Tasmania but have not eventuated (subject matter experts speculate that this is due to the offence being created as a pattern of conduct, thereby reducing the risk of misidentification arising from one-off incidents of self-defence or retaliatory violence).
- We heard mixed views from survivors about the likelihood of whether they would want to pursue the criminal pathway.
- Consideration could be given to capturing coercive controlling behaviours in contexts beyond intimate partner violence, for example by family members, extended family or carers, having regard for the different experiences of coercive control that may be experienced by First Nations people, people from culturally and linguistically diverse backgrounds, older women, or women with disabilities.
- We conclude with suggestions from subject matter experts to provide additional protections if an offence of coercive control is created.

From the literature

In the early stages of our project, the UQ Pro Bono Centre conducted a literature review to inform our lines of inquiry with subject matter experts and survivors, and to inform the data collection by the Women's Legal Services. We did some additional scanning of the literature and produced a brief paper, *Key messages from the literature* in March 2021.

We have not reproduced our findings here, as these have been subsequently well canvassed in the analysis and discussion paper produced by the Taskforce, and the merits or otherwise of criminalising coercive control are not within our remit. It is worth repeating, though, that the literature emphasises the importance of long lead times and education and training as essential preconditions for the effective operation of any legislation to criminalise coercive control.

As an important part of the domestic and family violence service system, training for community legal centres about a new offence would be essential. The literature highlights the importance of training for police and other first responders, judiciary, legal practitioners, social workers and medical providers, to assist in the recognition of patterns of coercive and controlling behaviours and gathering of the necessary evidence.

Insights from survivor and expert interviews

When considering the creation of a criminal offence of coercive control, five themes emerged from our expert and survivor interviews:

1. likely demand for legal assistance
2. the serious harm that would ensue if women are misidentified, with this risk heightened for First Nations and other vulnerable women, and with downstream implications for community legal centres
3. the reality that women may not want to pursue criminal charges
4. the potential missed opportunity if a narrow definition of coercive control is adopted
5. protective implementation considerations.

Likely demand for legal assistance

One of our research aims was to understand the impact on demand for community legal centres in jurisdictions which have criminalised coercive control. This data was not available from the United Kingdom and, in Tasmania, the impact has been minimal given the low take up of the offence.

As police would prosecute a criminal offence, there may be a minimal additional impact on community legal centres in relation to aggrieved parties. However, we note that there will be significant implications in respect of providing legal assistance and representation for people charged with an offence of coercive control and this will be critical in the event that women are misidentified as the offender, discussed further below.

Primary aggressor misidentification

Concerns for women

Misidentification of women as the primary aggressor is already a significant issue of concern in Queensland (Nancarrow 2020). The consequences of misidentification will be far more significant if women have to defend themselves against criminal charges of coercive control. The serious consequences for women misidentified as the respondent in civil protection orders were illustrated by our survivor interviews and, at the extreme end of risk, in death reviews. The 2016-17 Annual Report of the Queensland Domestic Violence Death Review and Advisory Board noted that in 44.4% of all cases of female deaths subject to review, the woman had been the respondent to a protection order on at least one occasion.

The risks of misidentification are heightened for First Nations women, who are already overrepresented in the criminal justice system and for whom breaches of civil protection orders are already a major pathway into the criminal justice system (Douglas and Fitzgerald 2018). The factors driving this, including over policing of First Nations peoples and societal and systemic racism (Women's Safety and Justice Taskforce 2021) may similarly drive overrepresentation of First Nations women being charged with a new offence of coercive control. Concerns have also been expressed that women from refugee, migrant or lower socio-economic backgrounds are at higher risk of being misidentified (Maturi and Munro 2020).

Implications for community legal centres

This potential unintended consequence of criminalising coercive control would have significant implications for the community legal sector, as people who are misidentified would be at high risk and require expert legal assistance and representation. This in turn would affect demand for, and the intensity of legal assistance required from the criminal law practice within generalist community legal centres. Further, neither of the two Women's Legal Services has a criminal law practice. This means the two specialist legal services for Queensland women would not, within their current funding and workforce settings, be able to assist women wrongly charged with a new offence of coercive control.

Considerations for defining coercive control, and police training

We note that misidentification of women in Queensland is occurring within the context of a legislative definition of domestic and family violence that critics argue enables protection orders to be made against someone for one-off incidences of abuse that are not a pattern of coercive controlling behaviours, including retaliatory violence by a woman who is being abused (Women's Safety and Justice Taskforce 2021).

Linked to the question of how coercive controlling behaviours are defined, we note that concerns about the risk of misidentification were shared in the United Kingdom. However, analysis from the United Kingdom suggests that the legislation there has not resulted in primary aggressor misidentification (McMahon and McGorry 2020) and in Tasmania all prosecutions, albeit small in number, have involved male offenders (Barwick et al. 2020). We note that these offences explicitly emphasise a pattern of behaviour rather than singular incidents.

Experts who have monitored the impact of the legislation in the United Kingdom posited that when police are trained to map patterns of behaviour and look for the power imbalance, then they are more likely to see violent resistance occurring in a context and not misidentify women as the

aggressor. Experts agreed that police training would be critical to reduce the risk of misidentification. However, one expert noted that even in England, Wales and Tasmania, misidentification of women had not eventuated, despite a lack of investment in police training. One explanation posited was that the offence operationalises in a gendered manner because:

As soon as you take off the blinders and look at the relationship as a whole, not just an incident, they [police] will see that he is the primary perpetrator, and she is not (expert).

Women may not want to pursue charges

If a proactive policing approach is encouraged, there is a risk that charges of coercive control may be pursued without women's consent, and may lead women to then spending hours trying to extricate their partners from criminal justice processes (Douglas cited in Victorian Women's Trust 2021). Recent Queensland research shows that this is occurring now with some women seeking to withdraw criminal charges for economic and other reasons (Douglas 2021).

In a system that is already victim-reliant, where women struggle to navigate multiple legal pathways, this could be a concerning and potentially harmful unintended consequence of criminalising coercive control. Survivor reflections from our interviews are worth noting here.

Some women indicated they would not want to pursue the criminal pathway if coercive control was criminalised. Reasons included concern for the impact on children, that they would not be believed, or safety concerns – that it could escalate the violence or at least not increase safety.

He'll be nasty and vindictive [if criminal charges were pursued].

Even if he was convicted and went to jail, he'd just pay someone else to get me and make me pay.

He'd be the one, jailed because of a vindictive ex who lied and schemed and trashed his reputation. He'd be the victim, not me.

This is a pipe dream. No-one would ever believe me or my daughters.

Me personally, I would not – because of the children...I just want him to stay away from me. I don't want to be in fear.

I would be so scared, and so scared of what he would say about me...I think that he actually believed that he's the one that's had the injustices done to him.

One woman had hoped to be able to help her abuser and would not have pursued criminal charges because she did not want to seriously harm the perpetrator or see him to go to jail. In cases such as this, a criminal charge could potentially cause further trauma to the survivor and unwanted protracted legal processes.

I just wanted my life back...It was really sad. I wanted to help him, but I couldn't...I didn't want him to go to jail – I just wanted him to be right again.

Conversely, some women would like to pursue criminal charges, although they noted the importance of having confidence that pursuing this avenue would be likely to achieve a conviction, as opposed to the disillusionment women expressed in the civil protection order system and

pursuing breaches of orders. Women had evidence of coercive control but would have to be convinced it could be prosecuted before pursuing this path.

I would want the legal service to be really honest and realistic about the possible outcomes – I went through a rape trial as a young woman and it dragged out and was awful. I expect it would be as bad to attempt to get a conviction for coercive control.

Yes, all I wanted was for him to be in jail. In his case, other alternatives just put me and the kids at more risk.

Oh yes, I would definitely pursue criminal charges. If we want to hold perpetrators responsible for their behaviour, we need powers to do so.

Looking back, yes. I really wish I had [pursued criminal charges for physical violence], at least over that very last time the police came or maybe one of the other times...I wish I'd got him charged because that would have been a criminal offence right there, on paper. I believe there was enough evidence that night. If he'd punched up a guy in the pub using the same punches and kicks, they'd charge him straight away, right? Even if it happened in the car park with no witnesses. So maybe if police were willing to make the effort to gather evidence of the crime, then my life would have been so much easier...I would have loved him to go to jail.

Here again, the role of police will be pivotal in the success or otherwise of implementing a new offence. Some of the women we spoke with noted that mistrust of police, police allegiances with the perpetrator, and negative experiences were potential barriers to pursuing a criminal pathway.

I'm traumatised and scared of the police. Maybe if they'd given me an opportunity, spoken to me and given me options and explained it was coercive control then yeh, I would have because I would have felt the organisation there to protect and serve is there to help me. (woman misidentified as respondent with later criminal charges for breaches)

He's best mates with the local police...There's no way they would ever charge him, let alone properly investigate him. (woman in a small town)

We asked women their views on alternatives to jailing their abuser, in the event coercive control is criminalised. No women asked this question thought that behaviour change programs would help. We note that most of the women interviewed were years down the track since separation. Those with children felt they would never fully escape the coercive control of their partners until their children were adults, and that the perpetrator would never change. One woman thought that GPS monitoring of the offender might help, while another favoured public naming and shaming as a more powerful motivator for change.

Our expert interviews highlighted that women may be reluctant to report abuse to police if they are concerned about their abuser being incarcerated.

Potential missed opportunity of a narrow definition of coercive control

Our expert interviews also highlighted that a broad definition of coercive control will be important to capture abuse beyond intimate partner relationships. This has been a limitation of the Scottish laws, which define coercive control only in intimate partner contexts. One expert highlighted that this is a particular limitation for women from culturally and linguistically diverse backgrounds. Our survivor interviews also highlighted instances of family and extended family coercive control being perpetrated against First Nations women or women from culturally and linguistically diverse backgrounds.

Additionally, one expert highlighted that there is an opportunity through the current work of the Taskforce to reconsider how the entire legislative framework could afford better protections against elder abuse.

Protective implementation considerations

Our expert interviews also identified some protective considerations that would need to be resolved in the construction of the coercive control offence.

First, one expert suggested that if a criminal offence of coercive control comes into effect, there should be an obligation for police to also take out a protection order on behalf of the aggrieved, in addition to seeking bail conditions. This expert noted that if police don't apply for the protection order, it would be very difficult for a community lawyer to then make such an application because they would not have access to the police brief of evidence. If the evidence in the civil and criminal processes doesn't align, this may affect the outcome in both processes.

Second, another expert noted that there may be value in considering ways to put protection in place, such as a restraining order, even if there's not a conviction, or if there's a conviction but the offender is not incarcerated. Such an option could be used as an incentive for the defence to agree to a protective order, a breach of which could result in prison, to avoid criminal conviction.

Finally, another expert noted that it will be important to allow victim-survivors to provide evidence remotely. As women may be afraid to give evidence in Court, this could remove one possible barrier to women pursuing the criminal pathway and echoes survivor reflections in our interviews that they found going to Court incredibly stressful and distressing.

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Appendix 1 – Research Methods

Purpose

The mixed method research seeks to:

1. Better understand the prevalence of coercive control for diverse client cohorts of Women’s Legal Service Queensland and North Queensland Women’s Legal Service.
2. Learn from Queensland women with lived experience of coercive control, including those who have been misidentified as primary aggressors, about what legal centres could do to safely elicit full disclosure and understanding of their circumstances, support them through the Court process, and link women to support services to build self-efficacy and address non-legal problems.
3. Learn from the literature and from community legal centres in other jurisdictions what the impact on service demand and practice has been from criminalising coercive control and what guidance they would offer to service systems proceeding down this path.

Research outcomes

The intended outcomes of this project are:

1. Understanding the elements of the problem and how best to respond to them from a community legal centre perspective including:
 - a. understanding the complexities of coercive control from the perspective of survivors and the perspective of the legal system
 - b. defining best practice in identifying coercive control when taking a history from clients, including investigation of the different needs and considerations when responding to Aboriginal and Torres Strait Islander women and women from culturally and linguistically diverse backgrounds
 - c. understanding the potential unintended consequences and risks of criminalising and prosecuting coercive control and how to mitigate these
 - d. offering guidance to community legal centres about how the identification of coercive control can assist with:
 - i. constructing better protection orders for aggrieved parties
 - ii. developing legal arguments when a woman is named as a respondent (that is, arguing that she is the party most in need of protection)
 - iii. improving processes and practices including safety planning and referrals
 - e. using these insights to inform community legal education, including advice on developing culturally responsive content.
2. Fact sheets for all Queensland community legal centres to inform legal practice and community legal education and

3. A contribution to public policy discussion in Queensland by better understanding the prevalence and nature of coercive control in Queensland, and the implications and impact on practice and demand for community legal services in overseas jurisdictions where coercive control has been criminalised.

Reference Group membership

A reference group was convened to oversee and guide the research, comprising:

- Angela Lynch CEO of WLSQ (transitioning to Sarah Bastian-Jordan, Deputy Principal Solicitor, Women's Legal Service Queensland to cover extended leave by Angela) and Annie Lewis, Director NQWLS, as the project sponsors
- Hayley Grainger, Principal Lawyer, North Queensland Women's Legal Service
- Keertan Samra, Solicitor, Women's Legal Service Queensland
- Beck O'Connor, CEO of DVConnect, as a key referral partner and offering insights into experiences of coercive control reported by clients of DVConnect
- Cecilia Barassi Rubio, Director, Immigrant Women's Support Service, as a key referral partner and offering insights into the unique needs of women from culturally and linguistically diverse backgrounds
- Thelma Schwartz, Principal Legal Officer at Queensland Indigenous Family Violence Legal Service, as a key referral partner and offering insights into the unique needs of Aboriginal and Torres Strait Islander women
- Cathy Pereira, Co-ordinator, Aboriginal and Torres Strait Islander Women's Legal Service North Queensland
- Amanda Shipway, Director, Legal Assistance Strategy and Funding, Department of Justice and Attorney-General
- Debbie Hewitt, Respondent Lawyer, Women's Legal Service Queensland
- Rachel Healy and one of: Katy O'Callaghan, Beth Tinning, Gretchen Young or Sue Goodwin, from the Clarity Consortium research team.

Research stages

Literature Review (November to January 2021)

WLSQ engaged the Pro Bono Centre from the School of Law at the University of Queensland to conduct a literature review to explore three key research questions:

- Are there recommended practices to identify and respond to instances of coercive control in jurisdictions that have not made coercive control an offence?
- What are the benefits, risks and practical implications of making coercive control an offence based on the experience of jurisdictions that proceeded down this path?

- What does the research tell us about the relative merits, risks and impacts of different approaches and does this help to understand where efforts should be prioritised?

Once the literature review was complete, the primary research team from Clarity Consortium synthesised the key messages, reviewed some additional literature, and presented key findings to the reference group. These findings informed later lines of inquiry for the research.

Data Collection (June-August 2021)

In February, Clarity Consortium identified suggested focus areas for the data collection, sought advice from the Reference Group about these, and interviewed three survivors of coercive control. The research team then discussed with WLSQ and NQWLS possible questions for lawyers or WLSQ Helpline staff to use at intake or during an advice session to record whether coercive control has been experienced and in what form. The focus areas and draft questions were informed by the key messages from the literature review.

We interviewed three women with lived experience of coercive control to inform the data collection process. These women were recruited for their ability to think at a systems level rather than to represent a diversity of circumstances, and provided feedback about the potential questions.

In discussing the draft questions to use in the data collection period, it became clear that the depth of questioning that would be ideal for research purposes was not feasible from a service delivery perspective. It was agreed that the data collection needed to be brief and not involve in-depth lines of questioning, to allow lawyers to focus on the presenting legal problems experienced by women and provide the best advice for their situation. Using a shared definition of coercive control, the data collection was done based on professional judgement by legal centre staff that a woman was experiencing coercive control and completing a check box if this was the case.

Interviews with subject matter experts (April – September 2021)

In order to understand the broader public policy context in Australia and overseas, the research team conducted 18 interviews with subject matter experts, including academics and practice experts, across the areas of screening, risk assessment, training, legal assistance and the justice system and working with specific cohorts of women affected by domestic and family violence.

Overview of subject matter experts interviewed

- An academic from the James Cook University School of Dentistry and a worker from a local specialist domestic violence service, who are involved in delivery of domestic and family violence training to undergraduate dentistry students;
- Academics from the James Cook University School of Social Work and Central Queensland University School of Business and Law, who have done initial scoping work regarding domestic and family violence training for undergraduate law students;
- Three community legal centre staff: two from Queensland one from Tasmania. One is a First Nations woman with expertise working with First Nations clients, one is expert in the field of elder abuse, and one is expert in working with women experiencing domestic and family violence;
- Three prominent academics who have written extensively on the topic of coercive control and whether it should be criminalised, two from Australia and one from New Zealand;

- A public prosecutor in Queensland;
- A Magistrate in the Specialist Domestic and Family Violence Court in Queensland;
- Six specialist practitioners from domestic and family violence services, two with expertise working with women with disability; two with expertise working with women from culturally and linguistically diverse backgrounds (one of whom is in Scotland and had insights about the offence in Scotland); one a First Nations woman with expertise working with First Nations women; and one with expertise working with people who identify as LGBTIQ;
- An ex-police officer, survivor of coercive control and developer of training about coercive control delivered in the United Kingdom; and
- A prominent author and advocate on the topic of coercive control in Australia.

Interviews with women with lived experience (August 2021)

From May 2021, WLSQ and NQWLS began identifying women experiencing coercive control and willing to be interviewed by the research team, with due consideration for recruiting a diversity of women. In August-September 2021, the research team interviewed 16 women. One of the interviewees withdrew from the research after completion of the interview. All records of this interview were destroyed, and were not included in the report or analysis. Of the fifteen interviews which informed this report, we interviewed ten women who were clients of Women’s Legal Service Queensland, and five who were clients of North Queensland Women’s Legal Service. Two women had accessed both services.

The interviews were conducted in accordance with the project’s ethical research plan, which was informed by and endorsed by the Reference Group. Interview guides and participant information and consent sheets were approved by the Reference Group, and these were translated into Easy English and made available to all interviewees.

Below is an overview of the characteristics and circumstances of the women we interviewed.

The research reference group and research team were particularly aware of the importance of prioritising the safety of participants. This required care to de-identify information about participants. Because of this, the women in the research are described in terms of the identity they agreed to during the research interviews where it is relevant to the findings of the Report. This may include their cultural backgrounds, their disability, age and/or their proficiency with English language. It is recognised that women’s lives are more than a single descriptor, that cultural identity can be overlooked under an assumption that those not described as from a culturally and linguistically diverse background are, by default, white.

In the interests of de-identifying participants, some women appear in more than one category in the overview below, so the numbers do not add up to fifteen.

- Most women, but not all, had experienced physical violence, including risk factors for lethality such as strangulation
- Women’s ages spanned from 20 years to two women in their late 60s
- Almost all women had a child or children

- Women lived in, or had lived in, Queensland, across the southeast, northern regional cities and small towns
- Five women of various ages were from culturally and linguistically diverse backgrounds – one of whom participated in the interview using an interpreter, two of whom had experienced coercive control perpetrated by extended family as well as their partners, and one who had been misidentified as the respondent
- Three First Nations women, one of whom experienced coercive control perpetrated by her First Nations male partner and his extended family, one of whom experienced coercive control from a sibling, and one of whom experienced coercive control by a non-Indigenous male partner
- Four women were misidentified as the respondent - two by police at the first callout, one after initially being identified by police as the aggrieved but subsequently being persuaded by the police to accept a cross-order instigated by the other party, and one by a private Domestic Violence Order initiated by the other party. One woman was from a culturally and linguistically diverse background, one identified as First Nations, one had disabilities and one is a fluent English speaker but in Australia on a temporary visa.
- Two women of English-speaking backgrounds disclosed having disability including intellectual, cognitive and/or physical disability, one of whom had been misidentified as the respondent by the police
- Two women were born overseas in English speaking countries (these two women are *not* included in the count of five women from culturally and linguistically diverse backgrounds, but we note their immigrant backgrounds because lack of local connections and unfamiliarity with the Australian legal system heightened their stress even though they are fluent English speakers from countries similar to Australia)
- Two women pursued criminal charges against the other party – one successfully pursued by a woman with disability, while the other is currently being pursued by a woman from a culturally and linguistically diverse background
- One woman was identified as being at high risk because the other party is a former police officer
- One woman reported caring for a child with disability
- One woman identified as being LGBTIQ.

In seeking and reporting women’s reflections on their experience with the two Women’s Legal Services, best efforts were made to the potential for bias, including:

- Both Women’s Legal Services provided ‘longlists’ of clients, from whom we approached a selection of women
- Women were recruited on a confidential basis, and neither service was advised of the identify of the women we interviewed

- Women were assured their participation and feedback would not affect their future ability access services from the two Women’s Legal Services
- None of the interviewees were known to the researchers
- The three research team members who conducted the interviews are experienced and suitably qualified researchers with no conflicts of interest
- The research team declares that while Women’s Legal Service Queensland funded the research, no undue influence was exerted by WLSQ in the conduct of the research
- The report was independently peer reviewed and quality assured by an experienced researcher.

Synthesis and report-writing (September 2021)

The research team met to synthesise the findings from the interviews, then presented and tested the key findings with the two Women’s Legal Services. A draft report was circulated to the reference group for review and discussion at a sense-making session held before finalising this report.

Resource development (October – November 2021)

One staff member from WLSQ and another from NQWLS will work with the research team to translate these findings into fact sheets for all Queensland community legal centres to use to inform legal practice and community legal education.

Appendix 2 – Data collection by WLSQ and NQWLS

To prepare for the data collection, our starting point was reviewing the literature and existing screening and risk assessment tools to identify possible questions that lawyers could ask to identify clients experiencing coercive control. We also interviewed three survivors of coercive control to test our draft questions and amend them based on their lived experience insights. We then tested the questions with our research reference group.

However, after further consideration, the two Women’s Legal Services were reluctant to use the scripted questions because of the additional time this would have taken in the already-busy context of providing advice or duty lawyer services. Concern was also expressed by lawyers about being able to make an appropriate response to more disclosures in a time-poor advice or duty lawyer setting. This suggested a separate need: to consider upskilling lawyers, a matter addressed in Part 5 of our report where we recommend options to train future and existing lawyers to respond confidently and sensitively to disclosures of coercive control.

For the purpose of the research, the Women’s Legal Services opted for a data collection method that relied on lawyers using a shared definition of coercive control and applying professional judgements about whether clients disclosed experiencing coercive controlling behaviours in the course of an interview. An additional tick box was added to each service’s forms for lawyers to complete.

There are obvious methodological limitations in taking this approach, as the identification of coercive control is based on professional judgement rather than a validated, consistent screening tool. However, this was considered the most pragmatic and ethical solution given that the priority for both services was taking a history and providing appropriate legal assistance, rather than contributing to research.

In the absence of a nationally agreed definition of coercive control, we recommended that the two services use the definition developed by the Australian Institute of Criminology for its 2020 survey of 15,000 Australian women to understand the prevalence of domestic violence among women during the early stages of the COVID-19 pandemic.

The Institute’s definition recognised the patterned nature of coercive control and defined it as experiencing three or more of a list of thirteen “emotionally abusive, harassing or controlling behaviours, indicating a pattern of behaviour” (Boxall and Morgan 2021). We recognise that physical and sexual violence are also tactics of coercive control but, following the AIC research, aimed to collect data about women also experiencing other tactics of coercive control.

A list of thirteen behaviours was developed by the Australian Institution of Criminology, in addition to physical and sexual violence. The presence of three or more of these behaviours were taken to indicate a pattern of behaviour that would constitute coercive control. This was used as the shared definition of coercive control for the purpose of data collection by the two Women’s Legal Services. The list is reproduced below:

1. threatening or abusing them online or using technology (eg over the phone or on social media);
2. stalking them online or in person;

3. constantly insulting them to make them feel ashamed, belittled or humiliated, or shouting, yelling or verbally abusing them to intimidate them;
4. damaging, destroying or stealing their property;
5. threatening to hurt their family, friends, children and/or pets;
6. the perpetrator threatening to hurt themselves;
7. monitoring their time and making them account for their whereabouts;
8. using their money or shared money or making important financial decisions without talking to them;
9. being jealous or suspicious of their friends;
10. accusing them of having an affair;
11. interfering with their relationship with other family members;
12. preventing them from doing things to help themselves (eg going to medical appointments, taking medication); and
13. restricting their use of their phone, the internet or the family car.

Appendix 3: Considerations regarding use of screening and risk assessment tools

We were able to identify a range of domestic and family violence screening and risk assessment tools used in Australia and overseas. However, we encountered divided expert opinion about their use, equivocal evidence about domestic and family violence screening from the health care sector, and resistance from busy lawyers working in time-limited advice sessions.

Arguments in favour of implementing screening or risk assessment tools

Subject matter experts who advocated for the use of screening tools argued that this is good practice and essential in discovering and responding to people experiencing coercive control, including developing the most appropriate legal advice for a client's situation. Several experts in other jurisdictions indicated that domestic and family violence screening and risk assessment tools are consistently used in that sector. One expert noted that risk assessment tools are used by crisis domestic and family violence services in situations that can be very time-limited and life threatening - and therefore use of a screening tool should be feasible to implement in a legal advice setting, even brief advice settings. This expert was concerned that even highly experienced and skilled professionals will bring unintentional biases to their work and may miss cases of domestic and family violence if relying on professional judgement alone.

Lending further weight to this argument is a study that concluded that universal screening processes were more successful in identifying domestic and family violence than reliance on professional judgement. Results indicated that clients were more likely to make disclosures when faced with a questionnaire asking behaviourally specific, direct questions, than they were during interviews with trained mediators (Dobinson and Gray, 2016).

Arguments against

However, other subject matter experts expressed concern about the appropriateness of repurposing tools for use in a legal practice that may have been designed for use by specialist practitioners in a therapeutic or other specialist service context. Additionally, some subject matter experts raised concerns with the lack of nuance and customisation in existing tools for First Nations women, women from culturally and linguistically diverse backgrounds, women with disability or those from the LGBTIQ community. We feel unable to recommend the use of tools by legal centres that haven't had customisation and validation for diverse client cohorts *and* use in legal settings.

We did identify one risk assessment tool developed specifically for use in legal settings (Family DOORS). This is used by Women's Legal Service Tasmania and is valued because it has an evidence base and was developed specifically for lawyers in a post-separation context. However, we note that this is relevant for parents going through a separation and would not be applicable for survivors without children, or for people being abused by family members. It therefore cannot serve as a screening or risk assessment tool for all clients who may experience coercive controlling behaviours without further revision or validation.

Further, the Family DOORS tool requires clients to complete a lengthy self-report and for practitioners to apply a risk assessment based on the self-report. This would require a significant time commitment from clients and lawyers and may not suit the short advice appointment model of many community legal centres. Additionally, support would need to be provided to clients with low

levels of literacy or English language proficiency. However, use of this tool may be helpful for community legal centres to use, or at least trial, with family law clients who are likely to receive ongoing assistance (i.e., more than one-off advice or duty lawyer assistance). Practitioners would need appropriate training before using the tool.

Several very experienced domestic and family violence legal practitioners considered that the best approach is to let clients tell their story and lead the discussion, provided lawyers understand the dynamics of domestic and family violence and are alert to clues to follow up using sensitive inquiry.

Finally we note concern expressed by the two Women’s Legal Services that not all lawyers may have the skills to respond appropriately to disclosures if universal screening were to be implemented. This was borne out anecdotally by feedback from one of the survivors we interviewed who noted she observed variable skills amongst the Women’s Legal Service lawyers in dealing with her distress, and that:

It is important for lawyers to know how to cope with client feelings because this is real life horror. (survivor interview)

It was this concern that led us to favouring upskilling over implementation of specific tools. Our thinking was also informed by the following two pieces of work from the health care sector.

Evidence from the health care sector

The University of Melbourne conducted a systematic review and meta-analysis of trials assessing the effectiveness of screening for intimate partner violence in healthcare settings. This work concluded there is insufficient evidence to establish whether universal screening improves outcomes for women, noting that more studies would be needed to determine whether universal screening versus targeted, risk based screening, or screening in combination with therapeutic intervention, would be optimal (O’Doherty 2014). Further, the studies reviewed showed that screening identified an incidence of intimate partner violence lower than estimated prevalence amongst the population.

The second piece of work that has informed our thinking is a partnership between the James Cook University (JCU) Schools of Dentistry and Social Work, and the Cairns Regional Domestic Violence Service, profiled in Appendices 4 and 5. The initiative aims to equip the future and current dentistry workforce with the skills to recognise and respond appropriately to patients who disclose they are experiencing domestic and family violence, and facilitate future help-seeking behaviour by patients who disclose.

The project investigated universal screening but instead opted for use of courageous conversations, sensitive inquiry, and equipping practitioners to respond appropriately. The project team reported that the rationale for favouring this approach over screening includes:

- Feedback from places where screening is routine is that disclosure is highly dependent on the relationship between the survivor and the health professional, and depends on the setting in which they are asked
- Without suitable training, screening can be a meaningless activity that does not improve outcomes

- Screening is a standardised tool and may not include observations of subtle signs, symptoms and behaviours
- Dentists (and, we note, lawyers) are not mandatory reporters.

Appendix 4 – Overview of JCU dentistry project

Dentists and Domestic Violence – Recognise Respond and Refer

This is a partnership, now in its sixth year, between the James Cook University (JCU) Schools of Dentistry and Social Work, and the Cairns Regional Domestic Violence Service. The initiative aims to equip the future dentistry workforce with the skills to recognise and respond appropriately to patients who disclose they are experiencing domestic and family violence and facilitate future help-seeking behaviour by patients who disclose.

Why it began

The project was driven by JCU Bachelor of Dental Surgery students who were attending clinics attended by women who were experiencing domestic violence and hearing disclosures but not feeling appropriately skilled to respond to them. Students were concerned that without these skills, they were not responding appropriately to patients with indicators of domestic violence and could inadvertently make things worse for patients making a disclosure.

How it works

Training is scaffolded over the final three years of the five-year undergraduate dentistry degree when students are working clinically and treating patients.

In the third year, the focus is on foundational knowledge of ‘recognise, respond and refer’, equipping students to know what they can say in order not to make it worse and support patients to get help. At first this stage was focused primarily on knowledge, but over time more advanced content has been introduced for third year students because they are asking for further skills in how to ask questions and document their clinical observations / findings.

In the fourth year, students participate in a two-hour workshop in addition to the lecture. This includes an “in her shoes” activity to understand the journey for survivors. Cairns Regional Domestic Violence Service has based these on real life stories to show the complexity of survivor experiences. Students participate in role playing how to open the conversation. Screening and sensitive inquiry are discussed. At this stage, trauma-informed approaches are also introduced.

The fifth year builds on the trauma-informed approaches taught earlier and introduces skills in appropriate documentation for the medico-legal side of the work. The aim is for students to be well equipped during extended regional, rural and remote clinical placements in culturally diverse communities. Their role as dental practitioners after graduation is also discussed.

In addition to the training, an “Are you being abused?” poster is displayed in all waiting areas, providing a checklist for women to consider what may help them identify they’re experiencing domestic and family violence, and encouraging disclosure to dentists (a copy of the poster provided in Appendix 5 and the checklist includes signs of coercive control).

Success factors

Staff involved in the project identified several critical success factors for this project. First, the project is student-driven, with students co-designing the program and actively involved in the program and its evaluation. For example, fifth year students talk to third years about the value of the program. Fourth year students are involved in the evaluation research (participatory action methodology).

Second, the ongoing partnership with the local domestic violence service and the School of Social Work is critical. The School of Social Work contributes training around interview skills and active listening, tailored to the School of Dentistry and with an understanding of how dentistry clinics work. The involvement of a local domestic violence service with local knowledge of the service system and clients is essential. The service shares practice wisdom, grounds the training in real life survivor stories and equips students to make appropriate referrals—all of which combine to make it ‘real world’ training and prevent it from becoming an academic lecture. The ongoing active collaboration and valuing of each party’s expertise has helped the program to grow and be tailored to the learning needs of participants.

Challenges

The major challenge is that the program is resource-intensive but unfunded, operating on the goodwill and commitment of all three project partners. The Cairns Regional Domestic Violence Service absorbs the cost of at least two weeks’ time each year for a worker to prepare and deliver training, all while juggling client intakes. Project partners have also given numerous presentations to gain buy-in for the project. There is interest in rolling out the program nation-wide but again, this will require time for JCU to support this and there is no funding to do it.

An implementation consideration is taking a gendered approach. The Cairns Regional Domestic Violence Service and the School of Social work inform participants that the language will be gendered and focus on female survivors. However, students and staff have raised concern about including people who identify as LGBTIQ+. Surveys by JCU show that students are more likely to look for indicators of domestic and family violence in women and more likely to screen women. Additionally, students may only inquire if they see signs of physical abuse, and it can be hard to shift students into recognising signs of non-physical abuse.

A further challenge is that nursing supervisors in dentistry practice, and dentists, can be resistant, hence the project has focused on working with students who are asking for this area of skill development.

APPENDIX 5 - WAITING ROOM POSTER FOR DENTISTRY

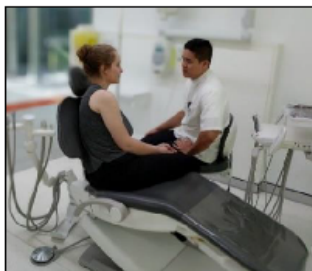


ARE YOU BEING ABUSED?

Sometimes it can be difficult to know if the relationship we are in is healthy and respectful or controlling and abusive. The questions below will help you to reflect on your relationship and determine if you are in a relationship with an abusive and controlling person.

Have you ever experienced any of the following from a current or former intimate partner, carer or family member?

- Yes Made to feel uncomfortable or afraid?
- Yes Put down, humiliated, or made to feel worthless?
- Yes Prevented from continuing or starting study, or from going to work?
- Yes Has constantly checked up on what you're doing or where you are going?
- Yes Has tried to stop you from seeing your own friends or family?
- Yes Made you feel afraid to disagree with or say 'no' to them?
- Yes Constantly accused you of flirting with others when this isn't true?
- Yes Told you how the household finances should be spent, or stop you having any money for yourself?
- Yes Made you use your money for all household and joint spending and not share their money?
- Yes Stopped you from having medical assistance?
- Yes Scared or hurt you by being violent (like hitting, pinching, choking, smashing things, locking you in, driving dangerously to frighten you)
- Yes Pressured, forced or tricked you to do sexual things that you didn't want to do?
- Yes Threatened to hurt you, or to kill themselves if you say you want to end the relationship?
- Yes Tried to control you by telling you that you could be deported because of your immigration status?
- Yes Threatened to take your children away or said they would refuse to let you take them with you, or even to see them, if you left?



If you answered **yes** to any of these questions **it may indicate that you are being abused**. We all have the right to feel safe, respected and cared for and to live free from violence, fear and control. If you are being abused it is not your fault and help is available. **Your dentist can help you** to access assistance and support from local services or you can contact the services listed below.

1800RESPECT

NATIONAL BULLY, HARASSMENT, STALKING
AND VIOLENCE HOTLINE SERVICE

Call: 1800 737 732

<https://www.1800respect.org.au/>

DVCCONNECT

Be heard. Be safe.

Call: 1800 811 811

<http://www.dvconnect.org/>

Calma Regional
Domestic Violence Service

Calma • Tablelands • Douglas Shire

Call: 07 4033 6100

<https://www.dvcaims.org/>

(Adapted from DVRCV Quiz: *Are you being abused?* <https://www.dvrcv.org.au/help-advice/abuse-quiz>)