

Controlling or coercive behaviour in an intimate or family relationship

Section 76 of the Serious Crime Act (2015) relates to “Controlling and Coercive Behaviour”, a new offence that has been created by the Act. This closes a ‘gap in law’ around such behaviour in an intimate partner or family setting.

Controlling or coercive behaviour is a purposeful pattern of behaviour which takes place over time, the exerting of power, control and coercion over another:

Controlling: make a person subordinate, isolated, exploiting of resources, depriving of independence, regulating their daily behaviour

Coercive: patterns of assault, threats, humiliation and intimidation, abuse used to harm, punish and frighten.

Such behaviour does not happen only in the home. The phone or social media can be used to monitor the victim as well. Victims can be made to fear violence from a distance, and may adapt their daily lives owing to fear or distress.

Examples include forced isolation, deprivation, being monitored, daily control (for example, clothing, food, money, socialising), insults, criminal damage of property, enforcing rules that humiliate, assault, preventing work or transport access, threats to a child, forcing the victim to engage in crime.

The offence applies in the following circumstances:

- The controlling or coercive behaviour must take place ‘*repeatedly or continuously*’:

Behaviour displayed as a one-off does not meet the threshold, and neither does such behaviour several years apart (the Act does not specify a timeframe but immediate succession is not thought to be required). To be an offence, there must be evidence of a pattern of abuse to show the repetitive and continuous behaviour.

- The pattern of behaviour has to have a ‘*serious effect*’ on the victim:

The victim is caused to fear that violence will be used on them at least on two occasions **OR** they have been caused serious harm or distress which has a substantial adverse effect on day to day activities.

- The perpetrator knows or ought to know that their behaviour will have a serious effect on the victim:

‘*ought to know*’ means that a reasonable person in possession of the information would know (that they are having a serious effect on the victim).

- The perpetrator and victim have been *personally connected* when the incidents took place:
 - at the time they were in an intimate relationship (whether domiciled together or not)
 - lived together and were family members

- live together and had previously been in an intimate relationship.

The offence does not apply where:

- victim and perpetrator are not 'personally connected' at the time of the behaviour
- the behaviour has been perpetrated against a child under 16 when the person perpetrating has parental responsibility (in which case different law applies)
- this is a one-off behaviour
- the behaviour does not have a serious effect.

The guidance puts forward 11 points to consider. These cross over with the guidance on adults with care and support needs at times.

1. *Impairment*: Those with a learning disability, mental health illness, or long-term conditions could be exploited in part due to their conditions or disability. Consider the use of the MCA (2005) alongside such safeguarding work.
2. *Ethnicity*: Those from black and minority ethnic background may face additional barriers to reporting, language barriers, concerns about family finding out, distrust of the police, or wider community rejection fears, and concerns about racism.
3. *Immigration Status*: Those subject to immigration control may face barriers to leaving abusive relationships. Perpetrators can use this to exert control and threaten to inform authorities.
4. *Fear of losing children*: A perpetrator may convince a victim that their children will be taken away if they report any abuse.
5. *Financial Abuse*: can be alongside other forms of abuse or stand alone. Consider the relationship dynamic of the client and carer and to what extent finances may be enmeshed as a household and not kept separate. Is the client in control? Are things fair and transparent? Is the client being heard?
6. *Drugs and Alcohol*: Victims may also use alcohol or drugs. Some may be forced to do so as a pattern of control; others may be using in order to help cope with the effects of the abuse.
7. *LGBT community*: threats to reveal sexual orientation to families. Gender identity is not to be conflated with sexual orientation but similar concerns about being 'outed' or denied support may apply.
8. *Forced Marriage*: not to be confused with arranged marriage.
9. *So called 'Honour based Violence' (HBV)*: The use of other people to control or coerce (extended family or community members): consider forced marriage and Female Genital Mutilation legislation. "A crime or incident which has or may have been committed to protect or defend the honour of the family" (CPS definition).
10. *Age*: If the victim is under 18 then Child Protection processes apply. An older person may be a victim of other kinds of abuse, and this is often carried out by someone known to the victim.

11. *Adolescent and Parent Violence & Abuse (APVA)*: no current legal standing but increasingly considered as a form of Domestic Abuse. Consider joint work with Children and Families.

Controlling or coercive behaviour is a new criminal offence and as such it is not a social work decision whether or not to institute. However, if these risks are present then consider raising a safeguarding concern and discuss with your manager/supervisor. Consider the Act when conducting safeguarding and potentially reporting such matters to the Police. Also consider MARAC referrals. As always take into account the adult's view and capacity and Making Safeguarding Personal applies.

A lot of these matters are considered in risk assessing and protection planning already but this guidance provides an easy read consolidation of these risk areas.