



# The Offence of Controlling or Coercive Behaviour

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# Introduction



S76 Serious Crime Act 2015 - 29 December 2015  
Maximum sentence 5 yrs imprisonment

It focuses on the cumulative impact of a pattern of behaviour which is likely to have a serious impact on a victim's physical and emotional health.

It is often about a pattern of power and control over time. By recognising coercive control, there is an acknowledgement that such a pattern exists.

# Key elements of the legislation



An offence is committed by a perpetrator if:

- They repeatedly or continuously engage in behaviour towards the victim that is controlling or coercive; **and**
- At time of the behaviour, the perpetrator and the victim are personally connected; **and**
- The behaviour has a serious effect on the victim; **and**
- The perpetrator knows or ought to know that the behaviour will have a serious effect on the victim.

# Personally Connected



The offence addresses controlling or coercive behaviour where people are “personally connected”, that is they:

- Are in an ongoing relationship and living together
- Are members of the same family and live together
- Were once in an intimate relationship but still live together.

# Serious Effect



It can be proved that a perpetrator's behaviour has a 'serious effect' on a victim where S76(4):

(a) Fear that violence will be used against them on at least two occasions; or

(b) Serious alarm or distress which has a substantial adverse effect on their usual day-to-day activities.

That may include:

- Stopping or changing the way someone socialises
- A change in routine at home including those associated with mealtimes or household chores

# Defences to S76(4)(b)



Defence to show:

- That in engaging in the behaviour in question, A believed that they were acting in B's best interest; **and**
- The behaviour in all the circumstances was reasonable.

A must raise sufficient evidence to raise the issue and hope the contrary is not proved beyond reasonable doubt.

Question: Whether a reasonable person in possession of the same information would know that the behaviour would have a serious effect on someone.

# Intention to control or coerce



The prosecution should be able to show that there was intent to control or coerce someone.

A *'ought to know'* that which a reasonable person in possession of the same information would know.

Vital that the likely defences which might be put forward are considered and addressed as early as possible.

Likely to be perpetrated alongside a range of other offences including Harassment, Sexual assault and physical violence.

# Stalking or Harassment Offences



- Behaviour displayed under each of these offences might be exactly the same.
- CCB has been introduced specifically to capture abuse in an ongoing relationship where the parties are personally connected following cases which indicated that stalking and harassment laws did not apply fully where there was an ongoing relationship.
- Instances where the relationship status change a number of times during the investigation. Status of the relationship at the time the offending behaviour was alleged to have taken place which is relevant.

# Victim issues and vulnerabilities



Likely to face a number of different issues and be extremely vulnerable.

Perpetrators often target vulnerable people recognising that they may face additional barriers to accessing help or support.

For example: exploiting someone's vulnerability owing to their immigration status, disability or sexual orientation; or combining controlling or coercive behaviour with enforced sexual activity to humiliate the victim and reduce the risk of them seeking help.

# Victim issues and vulnerabilities



- Very often over a number of years and normalised as part of their day to day life.
- Isolated and unable to compare their lifestyle to others - unable to identify they are victims of abuse.
- No 'typical' victim - may respond to abuse in a number of ways: consuming drugs/alcohol, showing signs of humiliation, detachment, anger, retaliation.
- Victims may also interpret abuse very differently including expressing feelings of guilt; might depend on their social or cultural context.

# What prosecutors look out for...



CCB can be overlooked - victims seen as colluding or consenting to the behaviour? Should not be assumed that compliance, dependence, denial and other responses are collusive. Ways of coping or adapting to the abuse.

Feelings of self-blame

First responders not asking the right questions to adduce the cumulative harm caused in the relationship.

A clear and coherent account from the victim is reliant upon their powers of recall/concentration, their understanding of the events and their ability to communicate.

# What prosecutors look out for...



Factors to consider:

- the impact of recalling a traumatic event;
- manipulation by the defendant or others;
- fear or allegiance to the defendant;
- barriers to communication including language barriers or other impairments.

Victims are not the only source of evidence and in some cases it is possible to proceed with a prosecution without the complainants support.



- Previous accounts made by victim, Diary,
- Threats to other family members including isolation, withdrawing from friends and clubs etc
- Photographs of injuries, 999 tapes, CCTV, Body worn video footage, at scene photographic evidence
- Witness testimony: neighbours, regular deliveries, postal, window cleaner etc.
- Emails, Phone records, Text messages, abuse over the internet and social media platforms,
- Records of interaction with support services, Medical records (perpetrator accompanying)
- Bank records financial control
- GPS tracking devices installed on mobile phones, tablets, vehicles etc.

# Digital Offending



With ever advancing technology and platforms perpetrators are finding more and more ways to humiliate, control and threaten victims.

Those places, such as parents or friends' homes or a walk in the countryside which were once seen as safe havens, can easily and quickly be infiltrated by the perpetrator, increasing the psychological and physical damage to victims.

Social media is more than likely going to be a large evidence source for the new offence as the online activity leaves a digital footprint

# Victims and Witnesses



- Views on the safety of victim and witnesses
- Victim Personal Statement
- Special Measures including registered intermediaries
- Communication and access or support needs
- Reporting restrictions
- Retraction: statement of reasons, looking for any duress/intimidation/harassment
- Referral to support agencies

# The Code for Crown Prosecutors



When deciding whether or not to prosecute we apply the *Code for Crown Prosecutors*. The code sets out a two stage test:

Is there enough evidence for a **realistic prospect of conviction** against the defendant on each charge?

- Enough admissible evidence to allow a court to be satisfied the offender has committed the offence charged “beyond a reasonable doubt”.
- If not, the second stage is not considered (no matter how serious the allegation) and no charge or the case will be discontinued.

Is it **in the public interest** for the CPS to bring the case to court?

- Victim’s views taken into account, but we represent the public
- More serious the crime, the more likely it is to be prosecuted
- But each case is looked at on its own merits



# Performance data

So far we have prosecuted 14 cases in Thames Valley  
8 have concluded resulting in 4/5 Convictions

1. Guilty 30 months imprisonment
2. Guilty 6 months imprisonment SS 18 months, Rehabilitation requirement 35 days and £1500 compensation
3. Lie on file but ABHx4 sentenced to 16 months imprisonment SS 18 months, 120 hrs unpaid work, Rehabilitation requirement 18 days £500 compensation
4. Guilty: 6 months imprisonment suspended for 18 months.
5. Guilty: 12 weeks custody suspended for 18 months.
6. Discontinued. Victim refuses to give evidence.
7. Not Guilty. Victim fails to attend
8. Not guilty: Dismissed following submission of no case to answer

6 are still before the courts

## Next Steps



The legal guidance and training materials have been reviewed to assist with the new offence.

An eLearning module specifically on Coercive Control has been developed

A training master class on Coercive Control was held with VAWG Coordinators which was then cascaded through training locally in CPS Areas.

Publication of our Performance in the annual VAWG report