

Coercive or controlling behaviour: how it relates to economic abuse

Surviving Economic Abuse

June 2017

1. Background

This briefing paper sets out how the criminal offence of controlling or coercive behaviour relates to economic abuse. It draws on the statutory guidance framework for police and criminal justice agencies developed by the Home Office (2015) as well as online guidance for Crown Prosecutors.

2. Controlling or coercive behaviour in an intimate or family relationship

The Serious Crime Act (2015) created a new offence of controlling or coercive behaviour in intimate or familial relationships (section 76). The offence is constituted by behaviour on the part of the perpetrator which takes place 'repeatedly or continuously'.¹ The victim and alleged perpetrator must be 'personally connected' at the time the behaviour takes place. The behaviour must have had a 'serious effect' on the victim, meaning that it has:

- Caused the victim to fear violence will be used against them on at least two occasions; or
- It has had a 'substantial adverse effect on the victim's day-to-day activities'

¹ Home Office statutory guidance understands 'repeatedly or continuously' to mean on an ongoing basis

Guidance for Crown Prosecutors states that the phrase 'substantial adverse effect' may include, but is not limited to:

- Stopping or changing the way someone socialises;
- Physical or mental health deterioration;
- A change in routine at home, including those associated with mealtimes or household chores;
- Attendance record at school;
- Putting in place measures at home to safeguard themselves or their children; and
- Changes to work patterns, employment status or routes to work.

The alleged perpetrator must have known that their behaviour would have a serious effect on the victim, or the behaviour must have been such that he or she 'ought to have known' it would have that effect (Home Office, 2015: 2).

The offence sets out the importance of recognising the harm caused by control or coercion, the cumulative impact on the victim and that a repeated pattern of abuse can be more harmful than a single incident of violence (Home Office, 2015: 3). It came into force on 29th December 2015. Whilst charges cannot be brought in relation to behaviour(s) that occurred before this date, consideration can be given to prior controlling or coercive behaviour as Bad Character Evidence.

3. Definitions

The cross-Government definition of domestic violence and abuse is: any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members, regardless of gender or sexuality. This can encompass, but is not limited to: psychological, physical, sexual, financial and emotional abuse.

Although financial abuse is recognised within the cross-Government definition of domestic violence and abuse, its meaning is not defined within English legislation.² The academic literature recognises that financial abuse is a sub-category of economic abuse. Economic abuse involves behaviours that:

Control a woman's ability to acquire, use and maintain economic resources.³

² In Wales, the Violence Against Women, Domestic Abuse and Sexual Violence (Wales) Act (2015) defines financial abuse as: having money or other property stolen; being defrauded; being put under pressure in relation to money or other property; and having money or other property misused

³ Adams et al. (2008)

Whilst financial abuse refers specifically to controlling money, economic abuse involves controlling access to economic resources (such as accommodation, transportation, clothing, food, personal possessions etc.) more broadly.

The Serious Crime Act (2015) defines controlling behaviour as: a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

Resistance to abuse is facilitated by tangible, social and personal resources. Tangible resources include economic resources such as money, transportation and a place to stay.⁴ An abuser may exploit a partner's existing economic dependency or create dependency/instability. Economic abuse through the depletion of resources therefore undermines resistance by limiting economic independence and the ability to exercise autonomy.

The Serious Crime Act (2015) defines coercive behaviour as: a continuing act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish or frighten their victim.

Economic abuse commonly overlaps with other forms of abuse⁵ and, in particular, psychological abuse.⁶ Economic abuse is also used as a mechanism through which to perpetrate acts of physical assault (using physical force to take money), sexual assault (making a partner perform sexual acts for money), threats (of physical abuse if bank account details not shared), humiliation (not paying for sanitary products) and intimidation (destroying her property).⁷

4. Types of behaviour relevant to controlling and coercive behaviour

The statutory guidance framework developed by the Home Office specifically recognises financial abuse as a behaviour which is controlling and coercive:

Financial abuse, including control of finances – such as only allowing a person a punitive allowance (Home Office, 2015: 4)

The CPS guidance gives 'limiting access to family, friends and finances' and 'taking

⁴ Dutton and Goodman (2005)

⁵ Adams et al. 2008; Outlaw, 2009; Postmus et al. 2012;2015; Sharp-Jeffs, 2015

⁶ Sharp-Jeffs, 2015

⁷ See the Economic Abuse Wheel developed by Sharp (2008)

wages, benefits or allowances' as examples of controlling and coercive behaviour.

Other relevant behaviours referred to across both sets of guidance which can be linked to financial/economic abuse include:

- Isolating a person from their friends and family: for example, denying a partner access to transportation/not allowing a partner to use the telephone.
- Depriving the victim of their basic needs: for example, denying a partner access to utilities such as heating and water.
- Repeatedly putting them down: for example: insisting that a partner only eats 'value' branded foods and tells them that it is because they are 'worthless'.
- Enforcing rules and activity which humiliate, degrade or de-humanise the victim: for example, making a partner beg for money.
- Forcing the victim to take part in criminal behaviour: for example, making a partner fraudulently apply for welfare benefits.
- Control ability to go to school or place of study: for example, hiding a partner's bus pass.
- Assault: for example, assaulting a partner for spending 'too much' money.
- Criminal damage: for example, smashing a partner's mobile phone.
- Preventing a person from having access to transport or from working: for example, cutting up a partner's work clothes.
- Preventing a person from being able to attend school, college or university: for example, destroying a partner's lap top/text books.
- Reputational damage: for example, sending sexually explicit pictures of a partner to their line manager.

As the guidance for Crown Prosecutors states, this is not an exhaustive list since a perpetrator will often tailor their conduct to the victim based on their intimate knowledge of them.

Controlling or coercive behaviour towards another can also incorporate acts which amount to criminal offences in their own right. Of the list provided in the statutory guidance framework, those relevant to financial and economic abuse include:

- Theft;
- Blackmail;
- Destroying or damaging property; and
- Threats to destroy or damage property.

5. 'Other considerations'

Statutory guidance on controlling or coercive behaviour notes that it is important to consider how any additional needs and barriers may affect the ability and willingness of the individual victim to recognise or report abusive behaviour. Financial abuse is given as an example:

Financial abuse is recognised as a feature of controlling or coercive behaviour forming a pattern of abuse alongside physical abuse, or in many instances as an independent form of abuse. An assessment of the power dynamics in a relationship should consider the control and access to finances as this can be a feature of controlling or coercive behaviour. For example, older women who have not worked and who do not have a pension in their own right may be even more financially reliant on abusive partners. Those who are being cared for by a relative may face barriers to reporting financial abuse by that relative (Home Office, 2015: 8).

6. Types of evidence

Examples of the types of evidence that could be used in relation to evidencing financial/economic abuse within both sets of guidance include:

- Copies of emails;
- Phone records;
- Text messages;
- Evidence of abuse over the internet, digital technology and social media platforms;
- Lifestyle and household, including at scene photographic evidence;
- Records of interaction with services, such as support services (debt counselling);⁸
- Witness testimony from family and friends of the victim;
- Local enquiries: neighbours etc.;
- Bank records to show financial control;⁹
- Diary kept by the victim;

⁸ Example added

⁹ Section 8 of the Police and Criminal Evidence Act (1984) applies to investigations of the new offence of controlling or coercive behaviour. This allows the police to apply for search warrants to gain access to materials such as bank statements that are likely to be of substantial value to the investigation where they are relevant evidence.

- Victim's account of what happened to the police;
- Evidence of isolation; and
- Where the perpetrator has a carer responsibility, the care plan might be useful as it details what funds should be used for.

It is further noted in the statutory guidance framework that contextual evidence can also be available. For example, housing services may have been called out to breach of the peace/ complaints from other tenants or have records of damage to property such as holes in walls (Home Office, 2015: 14).

In addition, under the Victim Code, the police must offer a victim of domestic abuse the opportunity to make a victim personal statement, even if they have not given any other witness statement.

7. Successfully prosecuted cases involving economic abuse

Ministry of Justice figures state that 155 defendants were prosecuted for controlling and coercive behaviour in 2016, with 59 found guilty and 28 of those imprisoned. Some of these cases illustrate economic abuse. For example:

May 2016: Mohammed Anwaar was convicted and sentenced to 12 months' imprisonment for controlling or coercive behaviour as well as 16 months for other offences related to assault and criminal damage. He controlled who his partner could see, what she was allowed to wear, what she could eat and made her get the bus so he could drive her car. One assault causing actual bodily harm happened following an 'argument' over money – he smashed her phone before attacking and choking her into unconsciousness.

November 2016: Graham O'Shea was jailed for four years and issued with a life-long restraining order against the victim and her family. He took control of every aspect of the victim's life: refused to let her wash herself or visit her family; gave her an allowance of £10 per week after taking her bank cards; escorted her to and from the bus stop when she went to work; and regularly accused her of infidelity. He also assaulted her on two occasions.

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