
OUR WATCH

SUBMISSION TO THE NSW JOINT SELECT COMMITTEE ON COERCIVE CONTROL

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About Our Watch

Our Watch is an independent, not for profit organisation established by the Commonwealth and Victorian Governments in 2013. Since establishment all State and Territory governments have become members of Our Watch. The NSW Government joined as a member of Our Watch on 10 May 2019.

Our vision is shared with the National Plan to Reduce Violence against Women and their Children 2010–2022 (the National Plan), namely an Australia where women and their children live free from all forms of violence.

The specific mandate of Our Watch is to focus on the primary prevention of violence against women and their children; to stop it before it starts. We provide national leadership to drive change in the social norms, structures, attitudes, practices and power imbalances that underpin, drive and support violence against women and their children.

Our Watch has four strategic goals:

Evidence: Australians understand the drivers of violence against women and their children and their role in creating change.

Action: Australians act to end violence against women and their children.

Leadership: We lead a national conversation about ending violence against women and their children.

Sustainability: We are a sustainable and well-run organisation.

Our Watch draws directly on international human rights frameworks to provide the rationale for our work, based on an understanding of violence against women as a serious and preventable human rights abuse.¹ *Change the story: A shared framework for the primary prevention of violence against women* adopts the United Nations' Declaration on the Elimination of Violence against Women (1993) definition of violence against women,² that describes violence against women as a fundamental violation of human rights, and points to Australia's obligation under international law to prevent this violence.³ The human rights-based imperative to end violence, and the human rights principles of collaboration, participation and ensuring equality of outcomes for all, inform every aspect of the framework.⁴

¹ Our Watch, Australia's National Research Organisation for Women's Safety and VicHealth (2015), *Change the story: a shared framework for the primary prevention of violence against women in Australia*, Our Watch, Melbourne Australia.

² Ibid., 19.

³ Ibid., 12.

⁴ Ibid., 13.

About this submission

The following submission responds to Terms of Reference for the Joint Select Committee on Coercive Control, and the questions outlined in the *Coercive Control discussion paper* released by the NSW Attorney General in October 2020.⁵

In line with our mandate and expertise, this submission will focus on question 15 posed in the discussion paper: ***What non-legislative activities are needed to improve the identification of and response to coercive and controlling behaviours both within the criminal justice system and more broadly?***⁶

The mandate of Our Watch is to focus on the primary prevention of violence against women and their children; that is stopping this violence from happening in the first place, by addressing the underlying social norms, structures, attitudes and practices that drive it.

Prevention is separate to, but complimentary to early intervention and response. While intervening in and responding to existing violence is essential, a primary prevention approach is necessary to stop violence against women from occurring in the first place and reduce the prevalence of violence in the long-term. This submission will highlight the importance of a primary prevention approach to addressing coercive control, focused on shifting the underlying drivers of violence against women. While primary prevention is Our Watch's focus, based on evidence, we support a comprehensive, holistic approach that addresses the entire spectrum of prevention, early intervention and response and their interconnectedness.

The gendered drivers of violence against women are deeply entrenched across society, but evidence tells us they can be shifted – through specific prevention actions, together with sustained efforts to progress gender equality more broadly. Addressing these underlying drivers of violence against women is the hallmark of a primary prevention approach. *Change the story*, Australia's shared national framework for primary prevention, sets out five essential actions that comprise such an approach.

These are:

1. Challenge condoning of violence against women
2. Promote women's independence and decision-making in public life and relationships
3. Foster positive personal identities and challenge gender stereotypes and roles

⁵ NSW Government. 2020. [Coercive Control discussion paper](#).

⁶ Ibid.

4. Strengthen positive, equal and respectful relations between and among women and men, girls and boys
5. Promote and normalise gender equality in public and private life.

The implementation of primary prevention programs and techniques needs to be supported by complementary political and institutional strategies, including public policy, legislation and regulation in order to make sustained changes to the social structures, systemic practices and social norms that enable, drive or effectively condone this violence. As such, this submission outlines how a prevention approach can be applied to the process of developing coercive control legislation and policies, as well as implemented through targeted programs across legal and justice settings and in the wider community. The NSW government has a key role to play in coordinating and driving a cross-government and cross-sector process to support a shared approach to the development and implementation of strategies to address coercive control. It is suggested that a primary prevention approach and programming can be applied to reduce the incidence of coercive control, regardless of whether or not new legislation is introduced.⁷

Summary of recommendations

[Recommendation 1] Our Watch recommends that, regardless of whether legislation to criminalise coercive control is introduced, a primary prevention framework and approaches can be used to prevent and reduce the incidence of coercive control. As coercive control, and the many forms of gender-based violence encompassed by the term, are part of a broader spectrum of violence against women primary prevention approaches are needed to address their shared underlying drivers.

[Recommendation 2] Our Watch recommends that any new coercive control legislation in NSW take a definition and scope that recognises all forms of ‘violence against women’ or ‘gendered violence’ in line with *Change the story*, Australia’s shared national framework for the primary prevention of violence against women and their children.

[Recommendation 3] Our Watch recommends that the introduction of any new laws related to coercive control be accompanied by a comprehensive, multi-sectoral approach to raise the capacity of those working across multiple settings and sectors to understand and respond appropriately to coercive control as it is experienced by a variety of women. This includes, but is not limited to, justice, legal and first-responder settings. *Change the story* provides an evidence-based framework to guide this change process across multiple sectors and settings.

[Recommendation 4] Our Watch supports clause 9.7 in the Discussion paper, that measures to prevent coercive control align with and be embedded in the revised NSW Domestic and Family Violence Blueprint.

Our Watch recommends the following to enable this:

- a) that the revised NSW Domestic and Family Violence Blueprint include a defined prevention strategy that is distinct from response and early intervention components, to address the underlying drivers of all forms of violence against women, including coercive control;
- b) as a member of Our Watch, that the NSW government work in collaboration with Our Watch to develop a revised primary prevention strategy;
- c) that the revised Blueprint incorporate measures to establish and strengthen policy, governance and coordination mechanisms across portfolios to support coordinated, holistic approaches to prevent all forms of violence against women, including coercive control.
- d) to support the implementation of laws to criminalise coercive control, that the revised Blueprint increase funding for specialist domestic and family violence response services, women's legal services, and specialist services that work with diverse communities and Aboriginal and Torres Strait Islander women, in order to ensure adequate capacity to respond to increased demand for services.

[Recommendation 5] Our Watch recommends that the NSW Government engage with civil society organisations and representatives with specialist expertise on violence against women to develop an implementation plan, *prior* to the introduction of any new laws, to carefully plan and sequence activities across the spectrum of prevention, intervention and response.

[Recommendation 6] A strategy to prevent coercive and controlling behaviours will require change in awareness, policies and systems across multiple sectors and settings. To support this, it is recommended that actions be coordinated by government through a cross-sectoral and cross-department mechanism.

[Recommendation 7] Our Watch recommends that, regardless of whether laws to criminalise coercive control are introduced, a whole-of-setting approach can be applied as an evidence-based approach to embedding change in a meaningful and lasting way. This requires a greater investment of resources beyond implementing training modules on violence but is a more effective approach to embedding deeper and lasting change.

[Recommendation 8] Our Watch recommends that awareness campaigns are seen as only one component in a broader implementation strategy that includes initiatives that operate across every level of the socio-ecological model, in multiple sectors and settings.

[Recommendation 9] Our Watch recommends that any social media campaigns be developed in collaboration with violence against women experts and response organisations, in order to ensure messages are aligned with the evidence base, and in order to prevent unmanageable increases in demand for services.

Introduction: Framing coercive control within the prevention of violence against women

Coercive control legislation aims to improve police and justice responses to violence against women, by broadening the scope for evidence collection and judicial consideration beyond singular, visible acts of violence, to address the full course of conduct of smaller incremental incidents that cumulatively, and over time are used to assert power and dominance over a victim-survivor.

‘Coercive control’ is an umbrella term that aims to capture this ongoing pattern of perpetrator behaviours that underpin the lived experience of violence for many women.

Coercive control does not describe any single form of abuse or behaviour, but rather it describes the pattern of domination and control that is created through a collection of behaviours. These behaviours may include physical, sexual, psychological, financial and emotional abuse and intimidation, used as tactics by a perpetrator to gain power, control and dominance over the victim-survivor. Coercive control is typically an interwoven course of conduct carried out over time. Individual acts may appear trivial, whilst forming part of a broader matrix of abusive behaviours that serve to reinforce and strengthen the control and dominance of one person over another.⁸

Coercive control encompasses a wide range of types of violence and perpetrator behaviours, including, but not limited to:

- Verbal threats and assault
- Restraint of movement
- Isolating a victim-survivor from family and supports
- Financial abuse
- Emotional abuse
- Stalking and intimidation
- Image-based abuse
- Sexual assault or coercion of a partner
- Reproductive coercion
- Threats to children⁹

As coercive control covers a range of actions including acts of physical violence, emotional abuse and financial abuse, it is difficult to quantify the full scale of the problem. However, there is considerable evidence that coercive control underpins the vast majority, if not all cases of intimate partner violence. The NSW Domestic Violence Death Review Team

⁸ Stark, E. 2007. *Coercive control: how men entrap women in personal life*. Oxford University Press.

⁹ Ibid.

estimated that in 111 of the 112 (99%) intimate partner domestic violence homicides that occurred in NSW between 10 March 2008 and 30 June 2016 that it had reviewed, the relationship was characterised by the abuser's use of coercive and controlling behaviours towards the victim.¹⁰

'Coercive control' encompasses a broad spectrum of types of violence, all of which have different rates, risk factors and protective factors and are experienced in different ways by women relative to their age, race or ethnic background, religion, socio-economic background and geographic location.

At a national population level, the data shows variations in the rates, and who is most impacted across the many types of violence encompassed under the umbrella term of 'coercive control':

- Almost one in four women (23% or 2.2 million) experienced emotional abuse by a current and/or previous partner since the age of 15, compared to just over one in six men (16% or 1.4 million).¹¹
- Of women who had experienced emotional abuse by a current partner, shouting, yelling and verbal assaults were the most common form of abuse experienced, with 58.2% of women compared to 37.4% of men experiencing this.¹²
- Of women who had experienced emotional abuse by a current partner, 49.6% reported their partner controlled or tried to control their contact with family, friends or community. 46.3% had their partner control where they went, or who they saw.¹³
- An estimated 1 in 6 women (17% or 1.6 million) and 1 in 15 men (6.5% or 587,000) experienced an episode of stalking since the age of 15.¹⁴
- One in 10 Australians have experienced image-based abuse. Women aged 18 and over (15%) are twice as likely as men aged 18 and over to have experienced image-based abuse (7%).¹⁵

¹⁰ NSW Government. 2017. [NSW Domestic Violence Death Review Team Final Report](#).

¹¹ ABS. 2017. Personal Safety Survey.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Office of the e-Safety Commissioner. 2017. [Image-based abuse: National Survey Summary Report](#).

- In Australia an estimated 15.7% of women compared to 7.1% of men had experienced economic abuse.¹⁶

The risk factors, experiences and impacts of coercive control are different across different population groups. For example:

- Emotional abuse is highly prevalent for most women with lived experiences of intimate-partner violence, but certain groups may be more likely to experience certain types of emotional abuse, or the impacts may be more severe. For example, older women, women with a disability and older women with cognitive disabilities may be more likely to experience specific forms of emotional abuse, such as neglect of care (food, medical care) as a form of punishment.¹⁷
- Young women, 12-20 are more likely than women in older age groups to experience stalking, intimidation and other forms of harassment, both in public spaces and online. They are also less likely to report incidences of stalking or intimidation to Police.¹⁸
- Young women are also more likely to experience acts of image-based abuse compared to other age cohorts, with 24% of young women aged 18-24, and 15% of girls aged 15-17 reporting experiences of having nude or sexual photos or images posted online without their consent.¹⁹
- Women aged 40-49 are most likely to experience financial abuse, particularly women leaving or in the process of separation or divorce, but first experiences of financial abuse are more likely to occur among younger women, starting from age 30.²⁰
- Women from certain cultural or linguistic backgrounds may experience specific forms of emotional or financial abuse, such as dowry stealing or having their finances controlled by extended family members. Refugee and recently arrived migrant women may also experience specific forms of isolation and restriction of movement, including threats to their visa or migration status.²¹

¹⁶ Kurtin, Russel and Reid. 2017. [Economic abuse between intimate partners in Australia: prevalence, health status, disability and financial stress.](#)

¹⁷ Women with Disabilities Australia. 2016. [Position Statement 1: The Right to Freedom from All Forms of Violence.](#)

¹⁸ Indermaur, D. 2001. [Young Australians and Domestic Violence.](#) Australian Institute of Criminology.

¹⁹ E-safety Commissioner. 2017. [Image-based Abuse National Survey Summary Report.](#)

²⁰ Kurtin, Russel and Reid. 2017. [Economic abuse between intimate partners in Australia: prevalence, health status, disability and financial stress.](#)

²¹ Ibid.

- Women and girls with disability are more likely than other women to be subjected to coercive medical interventions to control their fertility, and experience significantly more restrictions, negative treatment, and particularly egregious violations of their sexual and reproductive rights.²²

Coercive control, and the many forms of gender-based violence encompassed by the term, is part of a broader spectrum of violence against women. These various forms of gendered violence are related, in that they have shared underlying drivers. *Change the story*, in line with extensive international evidence, identifies gender inequality as setting the necessary social context in which all forms of violence against women occur.²³ This includes coercive control, which is explicitly recognised in the United Nations definition of violence against women used in the *Change the story* framework (emphasis added):

‘any act of gender-based violence that causes or could cause physical, sexual or psychological harm or suffering to women, **including threats of harm or coercion**, in public or in private life’.

The framework demonstrates that there are particular expressions or manifestations of gender inequality that are most consistently associated with higher levels of violence against women. These are referred to in *Change the story* as the ‘gendered drivers’ of violence against women. A range of international evidence finds that these gendered drivers arise from unequal and discriminatory institutional, social and economic structures, social and cultural norms, and organisational, community, family and relationship practices. Together, these structures, norms and practices create environments in which women and men are not considered equal, and violence against women is both more likely to happen, and more likely to be tolerated and even condoned.

The gendered drivers of violence against women are:

- Condoning of violence against women
- Men’s control of decision-making and limits to women’s independence in public life and relationships
- Rigid gender roles and stereotyped constructions of masculinity and femininity
- Male peer relations that emphasise aggression and disrespect towards women.²⁴

²² Women with Disabilities Australia. 2016. [‘WWDA Position Statement 1: The Right to Freedom From All Forms of Violence’](#).

²³ Ibid.

²⁴ Ibid.

Regardless of whether legislative approaches to criminalise coercive control are introduced, a primary prevention approach can be implemented to address the common underlying drivers of the many expressions of coercive control to reduce the overall size of the problem. Primary prevention approaches also offer a framework and proven strategies to drive multi-sectoral and lasting change, which could be complementary to the introduction of new laws.²⁵

[Recommendation 1] Our Watch recommends that, regardless of whether legislation to criminalise coercive control is introduced, a primary prevention framework and approaches can be used to prevent and reduce the incidence of coercive control. As coercive control, and the many forms of gender-based violence encompassed by the term, are part of a broader spectrum of violence against women primary prevention approaches are needed to address their shared underlying drivers.

Is criminalisation the right course? An overview of perspectives

Our Watch is a national leader in primary prevention of violence against women and their children in Australia. As a national leader in the violence against women sector, we will provide an overview of perspectives for and against criminalisation as it is important to consider how shifts in legislative and criminal justice approaches to domestic and family violence will impact across the violence against women sector, from primary prevention to intervention and response.

We refer the Committee to the following position papers and submissions for further advice on legal and response-end needs:

- Women's Legal Service NSW
- DV NSW
- AWAVA
- YWCA Australia
- Women's Safety NSW
- ANROWS

However, we suggest that regardless of whether a criminal justice response is deemed most appropriate, a primary prevention framework and approaches to working across sectors, settings and individual attitudes and norms, can be used to address the drivers of coercive control. Simultaneously, a primary prevention approach can guide the process of wide-scale, multi-sectoral and in-depth reform that would be needed across multiple settings to successfully implement laws to criminalise coercive control.

Internationally, legislative mechanisms to criminalise coercive control are new, with limited publicly available evaluation or impact data. England and Wales adopted criminal offenses for ‘coercive and controlling behaviour’ in 2015, with similar laws adopted in Scotland in 2018 and Ireland in 2019.²⁶ Tasmania is the only jurisdiction in Australia to have criminalised certain acts of coercive control, including economic abuse and emotional abuse, with the introduction of the *Family Violence Act 2004* (TAS).²⁷ As such, there is limited evaluation material on the long-term impacts, benefits or potential unintended negative consequences, that can be used to guide evidence-based decision-making. Evan Stark, the sociologist and researcher on inter-personal violence who coined and developed a framework for legal responses to coercive control, has noted that “the advocacy-driven public law-making based on coercive control and the critical response have spun far ahead of evidence-based research building or testing the model.”

The international jurisdictions where coercive control legislation has been introduced are different to NSW, both in terms of their legislative processes and the communities that they represent. In particular, England, Scotland and Wales do not have First Nations Peoples, so provide no evidence on how these laws may potentially impact or have unintended negative consequences for Aboriginal and Torres Strait Islander peoples. The potential benefits of coercive control legislation must be carefully considered in terms of their differential impacts upon a diverse range of women, and particularly Aboriginal and Torres Strait Islander women, who report experiencing physical or threatened violence at 3.1 times the rate of non-Indigenous women.²⁸

Given the limited long-term evidence available to guide decision-making on possible legislative outcomes and effectiveness, Our Watch recommends that any proposed legislation and implementation plan be developed through a collaborative, multi-sector design and drafting process, *before* legislation is approved. This process could draw on lessons from the consultative and iterative approach to legislative drafting taken in the UK, and iterative approaches to reviewing and re-drafting legislation taken in Scotland.

It is recommended that this process engages experts in violence against women across the prevention, intervention and response sectors, as well as specialist women’s legal services and specialist services that work with population groups that may be differently impacted by the legislation; including Aboriginal and Torres Strait Islander peoples, multicultural services, youth services and LGBTIQ+ services; to identify potential risks, impacts and unintended consequences and develop strategies to mitigate and reduce harm.

²⁶ Stark, E. Hester, M. 2018. [Coercive Control: Update and Review](#). Violence Against Women.

²⁷ McMahon, M. McGorry, P. 2017. Criminalising emotional abuse, intimidation and economic abuse in the context of family violence: The Tasmanian Experience. Deakin University.

²⁸ Our Watch. 2018. Changing the picture, Background paper: Understanding violence against Aboriginal and Torres Strait Islander women. Our Watch.

Should a decision be made to develop new legislation it is suggested that the NSW Government go through a collaborative co-design process to develop legislation and an implementation plan that considers the risks and mitigation strategies needed across the spectrum of primary prevention, intervention and response to address coercive control. This collaborative process would be supported by involving specialist domestic and family violence services, specialist women's legal services, Aboriginal and Torres Strait Islander family violence and legal services, and representatives from groups that work with migrants and refugees, alongside members of the police and justice representatives. This process would enable the provision of feedback on iterative drafts of proposed legislation and input on an implementation plan that identifies potential risks and mitigation strategies to ensure the laws do not unfairly disadvantage any particular communities.

Potential benefits of introducing laws to criminalise coercive control

There are a range of arguments that are put forward in favour of criminalising coercive control, that should be carefully considered. If it were to operate as proponents intend, legislation to criminalise coercive control has the potential to more accurately reflect the lived experience of victim-survivors, and potentially offers new opportunities for early intervention and access to justice. The introduction of laws to criminalise coercive control has the potential to bring New South Wales' legislation more in line with other jurisdictions, including Tasmania which explicitly criminalises acts of emotional and financial abuse; and Victoria and Queensland, which include psychological abuse within their definitions of domestic and family violence. Criminalising coercive control in NSW could contribute to the development of a more standardised definition of domestic and family violence across jurisdictions.

Currently there is no nationally consistent definition for domestic and family violence across Australian jurisdictions. The NSW Inquiry into coercive control presents an opportunity to both better align, and broaden, the definitions used at the policy and legislative level, to address all forms of 'violence against women' or 'gendered violence,' including coercive control as pattern of abuse. Our Watch, and *Change the story* deliberately adopt the language, definition and scope of 'violence against women' or 'gendered violence' and suggests this scope is more appropriate as it better encompasses all forms of partner/ex-partner violence, as well as other forms of violence against women that are underpinned by coercive control.

The NSW Government's Coercive Control Discussion paper notes that jurisdictions have taken varying approaches to considering the scope of relationships covered by coercive control legislation. Our Watch recommends a broad category be applied, to ensure the legislation creates benefit for all women who may experience coercive control. While domestic, family and sexual violence are the most common forms of violence against

women, there are also other forms of gendered violence that are underpinned by patterns of coercive and controlling behaviours. These include for example, stalking by non-partners, abuse of women with disabilities or older women that is not perpetrated by family members, misogynistic and violent online abuse, reproductive coercion, and trafficking of women, among others.

NSW could lead the way in this regard; but this would be further supported by action at the Commonwealth level to standardise definitions across Australia to recognise all forms of violence against women or gendered violence.

One of the most promising arguments in favour of laws to criminalise coercive control, is that it broadens the scope for evidence collection beyond the more extreme, visible forms of physical violence, to include mechanisms to consider and prosecute more subtle and ongoing patterns of power and control exerted by a perpetrator. In doing so, coercive control laws more strongly centre the focus on perpetrator actions and accountability.

This fundamental shift in legislative focus, away from the victim's experiences of violence onto the perpetrator's actions is an important one that is supported by the primary prevention evidence-base. This evidence shows that violence against women is rooted in gender inequality; and that its key drivers include: men's control over women's decision-making and independence; stereotyped constructions of masculinity; and male peer relations that valorise acts of aggression and disrespect towards women.

The introduction of legislation to criminalise coercive control has the potential to create powerful shifts in approaches to policing as well as public conversations and understandings of violence against women, which more accurately place the focus on men's actions and behaviours. Such initiatives implemented at the response (legislative) end of the spectrum would be aided and reinforced through additional primary prevention work further upstream, with men and boys to address harmful gender norms. Our Watch's *Men in focus: unpacking masculinities and engaging men in the prevention of violence against women* outlines key sites, settings and approaches to working with men and boys, particularly early on in life to prevent the adoption of coercive and controlling behaviours.²⁹

By more accurately reflecting the ongoing patterns of power and control that underpin most women's lived experiences of violence, coercive control laws also present an opportunity for more effective early intervention work, which has the potential to arrest trajectories of violence and abuse before they escalate further or lead to homicide. A 'course of conduct' approach to evidence collection that includes the capacity to collect

²⁹ Our Watch. 2019. *Men in focus: unpacking masculinities and engaging men in the prevention of violence against women*.

evidence related to non-visible forms of violence over more prolonged periods of time has the potential to enable victim-survivors to seek support earlier on in what is often a ‘cycle’ or progression of violence. However, to enable this, any new laws must be enacted alongside other measures that aim to improve early intervention and tertiary prevention mechanisms. This includes working across a variety of settings, including GPs, hospitals, financial services, maternal, sexual, reproductive and women’s health settings and other areas where women are likely to disclose, to improve understanding and capacity to respond to all forms of violence against women, including the many kinds of less ‘visible’ acts of coercive control. While early intervention and tertiary prevention are separate and distinct sectors, there is strong evidence from international jurisdictions, that primary prevention frameworks and whole-of-setting approaches are key to setting the foundations for success in these other parts of the system, because they help to embed change across entire sectors and organisations where women might be likely to disclose. For example, the WHO has endorsed primary prevention initiatives across healthcare settings as a means to improve early detection, whilst simultaneously building awareness across entire workforces and the broader community at large.³⁰

[Recommendation 2] Our Watch recommends that any new coercive control legislation in NSW take a definition and scope that recognises all forms of ‘violence against women’ or ‘gendered violence’ in line with *Change the story*, Australia’s shared national framework for the primary prevention of violence against women and their children.

Potential unintended consequences or negative impacts for some groups of women

The criminalisation of coercive control and shift towards a course-of-behaviour approach to police and justice responses may provide new avenues for some victim-survivors to seek support and better justice outcomes, but it must not be assumed that legislation will impact or benefit all women equally. It is recommended that the differential impacts, benefits and potential un-intended negative consequences that may arise for some groups of women be carefully identified, and mitigation strategies put in place *prior* to the introduction of new laws.

Different barriers of access to support and justice

Coercive control legislation, which shifts the evidentiary focus away from singular acts of violence, to capture a range of smaller, incremental acts of violence over a prolonged period of time, has the potential to create additional barriers to women leaving a harmful situation and accessing justice. This may be the case if legislation is introduced without considerable and extensive education and capacity building work in a range of emergency

³⁰ WHO. 2017. Strengthening health systems to respond to women subjected to intimate partner violence.

response and service settings, to improve understanding of all forms of violence among those workers to whom women are likely to first report.

This includes but is not limited to workers in the following settings and services:

- Police
- Ambulance and other first responders
- Health settings
- Legal services
- Emergency and crisis accommodation services
- Disability support services
- Financial services.

If women are encouraged to report a broader range of less-severe acts of violence, but are not believed when they do so, or the services they report to are not properly equipped to respond, then such laws will have the opposite effect of their intended outcome. This would have negative impacts for all women experiencing and seeking help for violence but could particularly affect the cohorts of women most likely to experience coercive control.

There is currently not enough evidence on women’s experiences of help-seeking and barriers to accessing justice overall, but there is some evidence to show that there are additional barriers of access, lack of trust and inadequate responses for particular population groups. For Aboriginal and Torres Strait Islander women who reported experiencing family and domestic violence, less than half (43%) who were physically injured visited a health professional for their injuries and only six in 10 (60%) reported the incident to police. Aboriginal and Torres Strait Islander women who experienced family and domestic violence reported lower levels of trust in police and hospitals compared with women who had not experienced any physical violence.³¹

Women with a disability who are experiencing violence also encounter additional barriers to accessing support and justice. ANROWS’ qualitative research with women with disability who had experienced violence, found that they encountered additional barriers to accessing justice services and being believed.

“In addressing the needs of women with disability, different services (here including disability support and advocacy services, specialist violence and domestic and family violence services, and legal support services) faced different challenges in supporting women to achieve access to justice. Understandings of disability and violence were variable and at times seemed reliant on common or pre-existing

³¹ ABS. 2019. National Aboriginal and Torres Strait Islander Social Survey 2014-15: Aboriginal and Torres Strait Islander Women’s Experiences of Family and Domestic Violence.

assumptions about women with disability – about women’s legal capacity and rights, about what “needs” women were likely to have, about what “barriers” to accessing justice might exist, about how violence might manifest and about what responses might best serve women.”³²

To address these differential barriers and impacts, it is recommended that the NSW Government conduct a Gender Impact Assessment across proposed legislation and policies to address coercive control, to consider the varying and intersectional needs and outcomes that might arise for various groups of women. Applying this step to the formation of legislation and policies can in itself act to prevent violence against women by promoting gender and social equality in public life.

In Australia our shared national framework *Change the story* identifies the following actions that are essential for addressing the gendered drivers of violence against women:

- Promote and normalise gender equality in public and private life
- Challenge condoning of violence against women
- Promote women’s independence and decision-making in public life and relationships
- Foster positive personal identities and challenge gender stereotypes and roles
- Promote broader social equality and address structural discrimination and disadvantage

These actions to address the gendered drivers of violence against women can be embedded within the process of developing policies and laws to address coercive control. For example, the NSW Government can:

- Promote and normalise gender equality in public life by conducting a Gender Impact Assessment and applying an intersectional lens to its legislation and policies in order to consider the differential impacts on different population groups of women.
- Challenge the condoning of violence against women, and particularly Aboriginal and Torres Strait women, by actively considering and developing mitigation strategies to counter any risks that may be posed to Aboriginal and Torres Strait Islander women.
- Promote women’s independence and decision-making in public life by actively engaging with specialist services that work with women, to involve them in the process of drafting legislation and an implementation plan that seeks to address

³² ANROWS. 2018. [Women, disability and violence: Barriers to accessing support.](#)

the needs and potentially negative impacts that might arise for different population groups.

- Promote broader social equality and address structural discrimination and disadvantage by actively considering the diverse range of lived experiences of violence and needs of different women; and developing strategies to address these needs.

Our Watch suggests that the process for developing any proposed coercive control legislation and an associated implementation plan could be supported by conducting a Gender Impact Assessment. This would apply a gendered and intersectional lens to identify differential or unintended outcomes for particular population groups prior to the implementation of legislation. Such an assessment could assist to define strategies to mitigate any unintended impacts or negative outcomes that might arise, particularly for groups of women who experience multiple forms of oppression and inequality.

Over-criminalisation of particular groups of women

There are concerns that the introduction of laws to criminalise coercive control, and a shift towards a course-of-conduct approach to policing may unintentionally have negative impacts, particularly for groups of women who already encounter higher rates of discrimination in their interactions with police. These risks need to be considered prior to the introduction of laws and countered through an implementation plan that has clearly defined risk mitigation strategies and initiatives in place designed to improve the capacity and tools for police, legal and justice settings to respond to the needs of all women experiencing violence.

ANROWS research has identified that “no Australian jurisdiction is currently well-placed to provide a model of police and court practice to effectively address misidentification of victims/survivors as perpetrators of DFV. While all jurisdictions have risk assessment tools, no jurisdiction currently has tools for police to assess patterns of coercive control that would detect which party is the perpetrator and which is acting in self-defence or violent resistance.”³³

This research showed that in NSW, there has been an increase in arrests of women as alleged perpetrators of intimate partner or family violence. It found that “an exploratory study of 95 female apprehended violence order defendants represented by Women’s Legal Service New South Wales in 2010 established misidentification of a substantial proportion of women as perpetrators. More than two thirds of the women defendants reported that they were victims of intimate partner violence and, when their matters

³³ ANROWS. 2020. [Accurately identifying the “person most in need of protection” in domestic and family violence law.](#)

went to court, “fewer than 40% of these clients had a final AVO [apprehended violence order] made against them when the case came before the court.”³⁴ The research showed that this misidentification had additional, disproportionate impacts for Aboriginal and Torres Strait Islander women who were less likely to fit an “ideal” image of a victim-survivor, and who may encounter additional risks in presenting to police, such as threats of having their children removed, increased risks of incarceration or police violence.

For these reasons, there is concern that the criminalisation of coercive control may increase police powers or may require victim-survivors to interact with police in a more regular or ongoing way. This poses barriers and creates additional risks for those groups of women who are already more likely to be in contact with police, and more likely to encounter systemic discrimination and violence at the hands of police.

The NSW Government’s *Coercive control: Discussion paper* has identified the need for training on coercive control to be implemented within police and justice settings, and this is a positive recognition. But beyond this, there is a need for broad systems reform across multiple sectors to improve justice experiences and outcomes for all women, and particularly for those who experience multiple forms of oppression or discrimination.

[Recommendation 3] Our Watch recommends that the introduction of any new laws related to coercive control be accompanied by a comprehensive, multi-sectoral approach to raise the capacity of those working across multiple settings and sectors to understand and respond appropriately to coercive control as it is experienced by a variety of women. This includes, but is not limited to, justice, legal and first-responder settings. *Change the story* provides an evidence-based framework to guide this change process across multiple sectors and settings.

Non-legislative approaches needed to prevent coercive control and to support implementation of any new legislation

The introduction of coercive control legislation and mechanisms to consider evidence across the full course of conduct of a range of small, cumulative acts, has the potential to better align legal and judicial processes to women’s lived experiences of violence. However, while the introduction of laws and shifts in policing approaches may improve responses for women already experiencing these forms of violence, improvements to the response system will not stop it from happening in the first place. To do this, legislative changes must be supported through a structured framework and change process across multiple sectors, systems and processes, alongside public awareness campaigns, in order

³⁴ ANROWS. 2020. [Accurately identifying the “person most in need of protection” in domestic and family violence law.](#)

to address the underlying drivers of coercive control, and other forms of violence against women.

Primary prevention models and approaches to addressing violence against women offer a framework and a process for driving this type of whole of population and multi-system change.

It is positive that the NSW Government's *Coercive control: Discussion paper* outlines a series of opportunities for primary prevention approaches to be included as a part of the spectrum of initiatives designed both to support the implementation of legislative reforms and to address coercive control more broadly. Opportunities outlined in the discussion paper include the following clauses:

- Clause 9.7 which identifies opportunities for primary prevention to be further embedded in planning and strategy development for the revised NSW Domestic and Family Violence Blueprint for reform, including community, victim and workforce awareness and education related to coercive control.
- Clause 9.13 which points to the need for whole-of-population prevention activities to address the underlying attitudes and beliefs that drive domestic and family violence, including education and awareness campaigns related to coercive control.
- Clause 9.14 which identifies the need to apply a greater focus on the complex nature of all forms of domestic and family violence, including coercive and controlling behaviours as part of primary prevention going forward, regardless of whether coercive control is a specific criminal offence.
- Clause 9.15 which points to the need for crafted communications and awareness raising campaigns linked to evidence on the underlying attitudes and behaviours that drive intimate-partner violence.

It is positive that the *Coercive control: Discussion paper* recognises the need for increased commitment to primary prevention approaches that address the underlying attitudes, behaviours and drivers of all forms of violence against women, regardless of whether coercive control becomes a specific criminal offence. However, this commitment needs to translate into effective action. Primary prevention work needs to be developed in line with existing evidence-based frameworks and approaches; and with input from experts on the prevention of violence against women. This will ensure a comprehensive approach – one that goes beyond awareness raising campaigns and addresses not only individual attitudes and behaviours, but also broader social norms, structures and practices. It is this

comprehensive approach, involving mutually reinforcing efforts across multiple sectors and settings that will be effective in driving change to the drivers of violence against women.

[Recommendation 4] Our Watch supports clause 9.7 in the Discussion paper, that measures to prevent coercive control align with and be embedded in the revised NSW Domestic and Family Violence Blueprint.

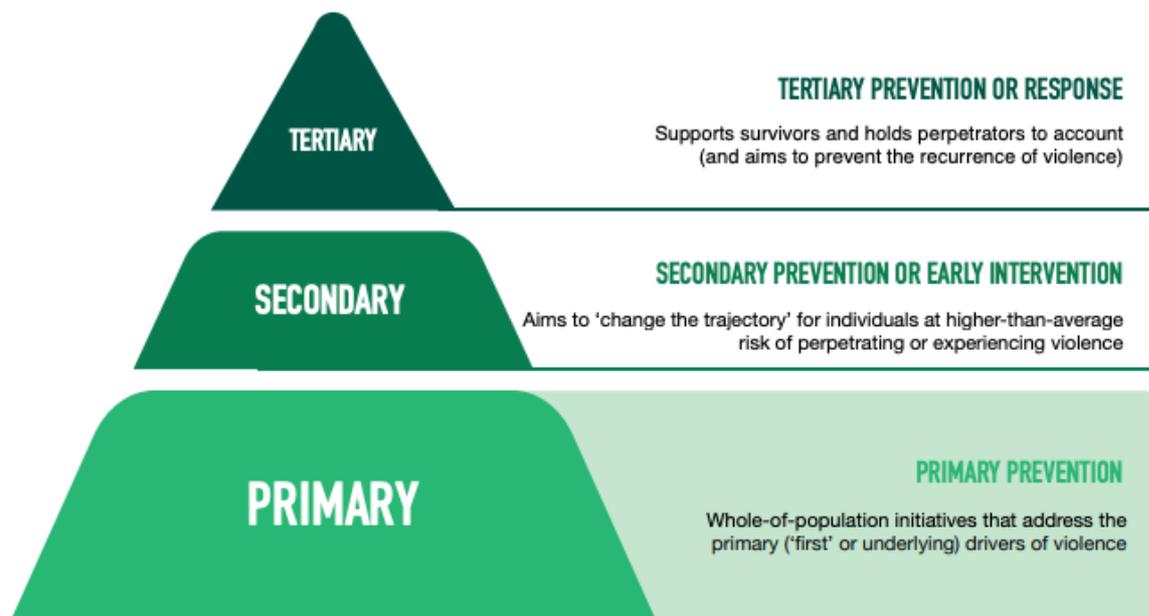
Our Watch recommends the following to enable this:

- e) that the revised NSW Domestic and Family Violence Blueprint include a defined prevention strategy that is distinct from response and early intervention components, to address the underlying drivers of all forms of violence against women, including coercive control;**
- f) as a member of Our Watch, that the NSW government work in collaboration with Our Watch to develop a revised primary prevention strategy;**
- g) that the revised Blueprint incorporate measures to establish and strengthen policy, governance and coordination mechanisms across portfolios to support coordinated, holistic approaches to prevent all forms of violence against women, including coercive control.**
- h) to support the implementation of laws to criminalise coercive control, that the revised Blueprint increase funding for specialist domestic and family violence response services, women’s legal services, and specialist services that work with diverse communities and Aboriginal and Torres Strait Islander women, in order to ensure adequate capacity to respond to increased demand for services.**

Preventing coercive control and all forms of violence against women

Coordinating and sequencing initiatives across the spectrum of prevention to response

Taking a primary prevention approach to address the underlying drivers, behaviours and social norms that define coercive control is a long-term goal that requires ongoing and consistent commitment and action. While intervening in and responding to existing violence is essential, a primary prevention approach is necessary to stop violence against women from occurring in the first place and reduce the prevalence of violence in the long-term. As the diagram below shows, primary prevention is a distinct approach with a distinct goal. Prevention is different from, but complementary to early intervention and response work, and all three approaches are necessary to form a comprehensive and holistic approach to addressing coercive control.



Source: Our Watch, *Change the Story*

To effectively prevent, intervene and respond to coercive control, any proposed legislative mechanisms need to be supported through a detailed implementation plan that carefully considers and sequences supporting and complementary activities across the spectrum from prevention to response. Evidence from the Tasmanian experience has shown that if laws are introduced and publicised before police have policies and procedures in place to respond to complaints of coercive control, that uptake of the laws and successful conviction rates will remain low.³⁵ The danger with a low uptake or conviction rate related to new laws, is that it threatens to further weaken victim-survivor trust and confidence in the response and legal system, and so rather than increasing victims' access to justice as intended, it may in fact have the opposite effect.

Similarly, if public awareness campaigns are introduced before specialist violence response and support services are adequately funded and equipped to respond to an increased demand for services, there is a risk that the proposed laws will not have the intended effect of improving outcomes for victim-survivors, but rather will have the opposite effect because the services they seek to access will be over-stretched.

[Recommendation 5] Our Watch recommends that the NSW Government engage with civil society organisations and representatives with specialist expertise on violence against women to develop an implementation plan, *prior* to the introduction of any new

³⁵ McMahon, M. McGorry, P. 2017. Criminalising emotional abuse, intimidation and economic abuse in the context of family violence: The Tasmanian experience. University of Tasmania Law Review.

laws, to carefully plan and sequence activities across the spectrum of prevention, intervention and response.

Moving beyond awareness campaigns: designing prevention strategies that work across multiple sectors and multiple levels of social life

Primary prevention is an approach to understanding and addressing the issue of violence against women within a social context. This is outlined in *Change the Story* which uses a socio-ecological model to explain individual behaviour in a social context that is reinforced at the organisational, community, systemic and social levels. This conceptual model is illustrated below.

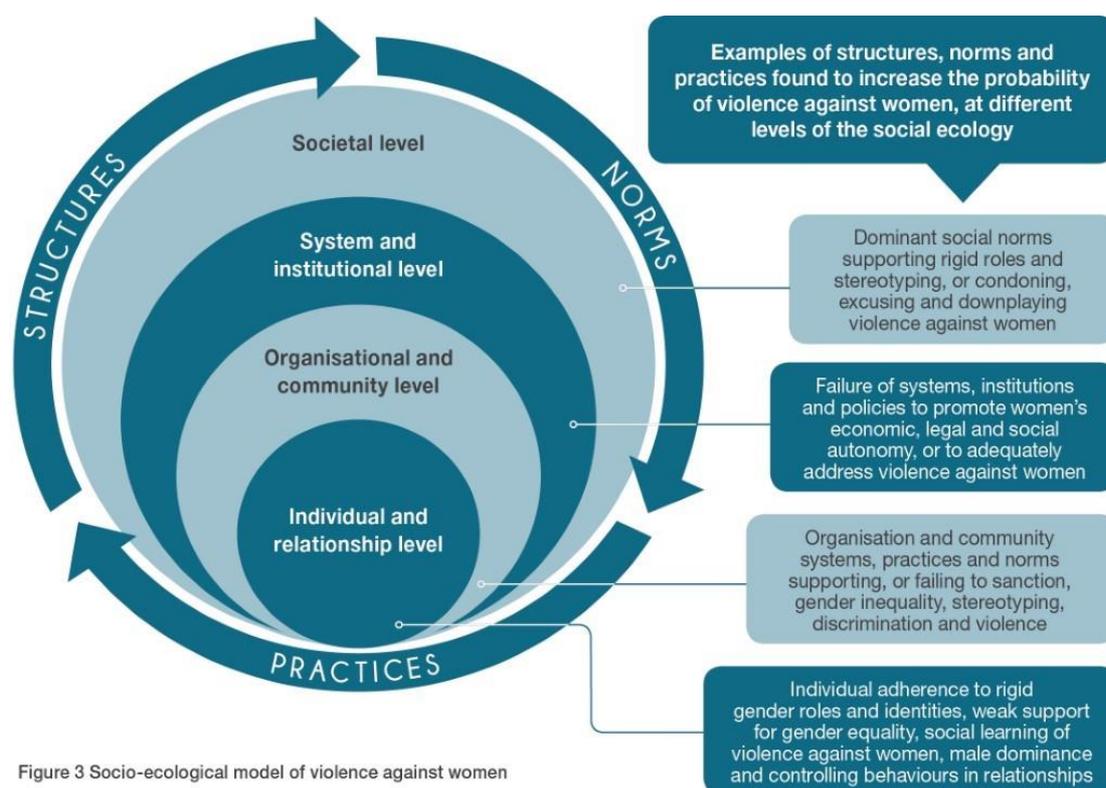


Figure 3 Socio-ecological model of violence against women

Source: *Change the story: A shared framework for the primary prevention of violence against women and their children in Australia*, Our Watch, ANROWS and VicHealth (2015).

The actions outlined in clauses 9.7 – 9.15 in the NSW Government's *Coercive Control: Discussion paper* focus on initiatives to increase public awareness and education related to coercive control. These are important components to increase *understanding* of coercive control, but these approaches alone will not prevent it from happening. To do this, we need to shift the underlying drivers of coercive control, as a form of violence against women. This requires changes to the kinds of attitudes and beliefs, social norms and social structures and practices that underpin and drive these violent behaviours.

A primary prevention approach goes beyond awareness raising and education. It offers a framework for coordinated change across multiple levels of society, multiple systems and multiple sectors to create and reinforce positive shifts at the individual level. There is strong evidence in Australian and international literature and research to show that strategies to prevent violence against women that are designed to create touch points for change across multiple levels of the socio ecological model, in a coordinated and mutually reinforcing way, are more successful in reducing rates of violence than a more ad hoc approach. Regardless of whether coercive control legislation is introduced, Our Watch recommends that a primary prevention approach, based on the *Change the story*, offers a useful framework to drive coordinated change across multiple settings and sectors, including, but not limited to the judiciary, police, legal services and response sectors to address coercive control.

[Recommendation 6] A strategy to prevent coercive and controlling behaviours will require change in awareness, policies and systems across multiple sectors and settings. To support this, it is recommended that actions be coordinated by government through a cross-sectoral and cross-department mechanism.

Taking a whole-of-setting approach across multiple sectors

As the national prevention framework, *Change the story* sets out the importance of taking a ‘whole-of-setting’ approach that includes work across the socio-ecological model – including a range of techniques, from direct participation, to organisational change and development, and structural and policy change. Effective prevention efforts engage people across the many different environments where people live, work, learn, socialise and play – often called ‘settings’.

A settings-based approach works across entire organisations to address systemic barriers to gender equality, while simultaneously building capacity to understand, recognise and respond to all forms of violence against women. This approach aims to engage the largest possible number of people across multiple-levels to work together in a coordinated way to make changes across policies, practices and skills to support all people to take action to prevent violence against women. In practice, this approach involves developing industry-wide standards and a framework for change, data collection, strategy development, supported training for entire workforce or community groups on violence against women and gender equality more broadly, and coordinated implementation of actions for change over time. Our Watch has worked with partners across multiple settings to embed this work, including the South Australian, Victorian and Tasmanian public services, sporting codes, universities and TAFEs. For example, the [Our Watch Workplace Equality and Respect](#) website and the Respectful Relationships Education website provide detailed

information on what this approach looks like in practice in workplaces, and in education settings.

Regardless of whether criminalisation legislation is enacted, it is suggested that a settings-based approach could be applied to working across multiple settings, including working with police, justice, legal, first response and health settings, to increase capacity and systems to recognise, prevent and respond to all forms of violence against women, including coercive control. Settings-based approaches have considerable international and national evidence to demonstrate their efficacy in driving coordinated and sustained change.

Since the release of *Change the story*, Our Watch has been implementing its proposed approach to prevention in four specific settings (sports, workplaces, media and education), and working with others to understand and develop best practice approaches. In each case, our experience has reinforced the importance of taking a whole-of-setting approach and provided valuable lessons about what this requires in practice. This approach recognises that within a single setting there are many different stakeholders and influencers, and therefore a need to identify actions that address the gendered drivers of violence across the whole setting.

Change the story identifies 11 priority settings for action, to address the complex social problem of violence against women through by working across industries and across entire organisations to embed sustained and meaningful shifts in the way people think and behave in relation to gender inequality and violence. In relation to preventing coercive control, and supporting the effective implementation of proposed new laws, *Change the story* whole-of-setting approaches should be prioritised and implemented across the following settings:

- workplaces, corporations and employee organisations
- health, family and community services
- legal, justice and corrections contexts.

In practice, this would include building interventions that work with a range of sectors and workplaces to embed a full understanding of the nature of all forms of violence against women, and how coercive control is enacted and experienced by diverse groups of women. This would include but not be limited to working with:

- NSW Police
- Justice settings, including the judiciary, court employees and case workers.
- Legal settings and services
- Emergency and first responder settings

- Financial services settings to address financial abuse
- Technology and social media companies to address image-based abuse.

In Australia, whole-of-setting approaches have not been applied to legal and justice settings. As such, adequate time and resourcing would need to be provided in order to develop, pilot and embed this work.

[Recommendation 7] Our Watch recommends that, regardless of whether laws to criminalise coercive control are introduced, a whole-of-setting approach can be applied as an evidence-based approach to embedding change in a meaningful and lasting way. This requires a greater investment of resources beyond implementing training modules on violence but is a more effective approach to embedding deeper and lasting change.

Awareness campaigns to improve individual-level ability to recognise and respond to early signs of coercive control

National communications and social marketing and behaviour change campaigns are an important strategy to address and prevent violence against women when combined with other techniques in a multi-faceted approach. Such campaigns must go beyond simply 'raising awareness'. While awareness raising is important, it is crucial that awareness is translated into knowledge and skills for taking action to address the issue, including by promoting gender equality. Social marketing campaigns can focus on social change strategies that move beyond awareness and towards changes to social norms, and to the knowledge, attitudes and behaviours that relate to the drivers of this violence.

ANROWS in their submission to the NSW inquiry into coercive control, have provided evidence from the 2017 National Communities Attitudes towards Violence Against Women Survey (NCAS) that while most Australians understand violence against women as involving a continuum of behaviours, they are more likely to recognise forced sex and obvious physical violence than they are to understand social, emotional and financial forms of abuse and control as forms of violence against women.

The 2017 NCAS found that:

- Australians were less likely to understand acts of non-physical violence as forms of domestic abuse, compared to physical abuse. This included lower rates of recognition that acts of controlling a partner's social life, denying them money, tracking their location using their mobile devices or harassment by email or mobile, were a form of domestic violence or violence against women.
- 1 In 3 Australians believe that if a woman does not leave her abusive partner then she is responsible for the violence continuing.

- 2 in 5 Australians believe that women make up reports of sexual assault in order to punish men.
- There has been a continued decline in the number of Australians who understand that men are more likely than women to perpetrate domestic violence.
- 1 in 5 Australians do not believe that financial control is a serious problem.³⁶

Although more Australians are now aware of the many different forms violence against women can take, there is still more work to do to emphasise that it can be more than physical violence. Efforts to prevent and address coercive control will need to be informed by considerable investment in awareness raising and campaigns that not only inform the public about the existence of and ways to access new laws, but also increase understanding of non-physical forms of violence and the use of power and control in relationships.

Awareness campaigns to prevent coercive control should be directly informed by the NCAS data on knowledge, attitudes and social norms, and will need to include tailored and targeted messaging for different audiences that challenge attitudes that:

- Excuse the perpetrator and hold women responsible.
- Minimise violence against women by downplaying its seriousness and impact on victim-survivors.
- Disregard the need for consent and attitudes that rationalise men's failure to actively gain consent as a 'natural' aspect of masculinity.
- Mistrust women's reports of violence.

Campaigns that address these underlying attitudes will need to be targeted towards the general public in order to encourage uptake of the laws, but will also need to be tailored to justice, legal and first-responder settings in order to ensure adequate response to demand for new laws.

There are many campaigns in Australia that work across the spectrum of violence against women (primary prevention, early intervention and response). These include campaigns that seek to raise awareness about violence against women, support help-seeking for women experiencing violence or men perpetrating violence, and promote bystander actions, challenge gender stereotypes, support women's rights and promote gender equality.

Examples of campaigns developed by Our Watch include the *No Excuse for Abuse* campaign aimed at raising awareness of non-physical abuse,⁵⁴ and *Doing Nothing Does*

³⁶ ANROWS. 2017. [National Community Attitudes on Violence Against Women Survey \(NCAS\)](#).

Harm campaign aimed at motivating people to do something when they see or hear disrespect toward women.⁵⁵

These campaigns include public awareness messaging on recognising the early signs of abuse and actions individuals can take in response. With support from the NSW Government these campaign materials could be utilised to prime public awareness of the drivers of violence against women, at an appropriate time relative to the introduction of new legislation.

In addition to broad-based campaigns aimed at increasing awareness of violence against women and its drivers, targeted awareness campaigns are needed, that specifically address the different types of violence encompassed under the umbrella term of ‘coercive control’ and these campaigns can be strengthened by being further tailored to the needs of specific key audiences and cohorts. Examples of this could include:

- financial abuse, with targeted doses of messaging aimed at under 30 year olds (most common first age of experience) and at 40 year olds (most likely to experience).
- Stalking and intimidation, with targeted messaging and strategies aimed at young women’s experiences.
- Targeted campaigns related to coercive control as specifically experienced by women living with a disability.
- Targeted campaigns aimed at young men, aimed at improving understanding and recognition of coercive and controlling behaviours.

The development of awareness raising campaigns should actively involve experts on violence against women and response services in the design of campaign messages, images and timing, in order to ensure messages are aligned with the evidence-base and strategies that work to encourage people to actively seek help or to respond to early instances of controlling behaviors. This is also crucial in order to ensure services are adequately prepared or notified in time to prepare for any increased demand of services.

Beyond promoting the introduction of coercive control laws and functions, awareness campaigns should actively make the link between coercive control and the gendered drivers of violence against women:

- Condoning of violence against women
- Men’s control of decision-making and limits to women’s independence in public life and relationships
- Rigid gender roles and stereotyped constructions of masculinity and femininity
- Male peer relations that emphasise aggression and disrespect towards women.

This will help to reinforce messages already in the market and help to consolidate, rather than dilute existing campaigns and work being done to raise public awareness and action to prevent and respond to all forms of violence against women. It is important that awareness campaigns are not seen as the only strategy, or the most effective strategy to address harmful attitudes and norms. International evidence strongly shows that one-directional awareness campaigns are not only limited in their effectiveness, but have the potential to reinforce, rather than challenge harmful attitudes and behaviours.³⁷ Awareness campaigns should be seen and used as one component in a broader implementation plan that includes strategies that work at every level of the socio ecological model, across sectors, and across multiple settings, to reinforce and drive lasting and sustainable shifts in social norms.

[Recommendation 8] Our Watch recommends that awareness campaigns are seen as only one component in a broader implementation strategy that includes initiatives that operate across every level of the socio-ecological model, in multiple sectors and settings.

[Recommendation 9] Our Watch recommends that any social media campaigns be developed in collaboration with violence against women experts and response organisations, in order to ensure messages are aligned with the evidence base, and in order to prevent unmanageable increases in demand for services.

³⁷ What Works. 2020. A rigorous global evidence review of interventions to prevent violence against women and girls. UK Department for International Development.