



Home Office

Controlling or Coercive Behaviour in an Intimate or Family Relationship

Statutory Guidance Framework

December 2015

Section 1 – Status and purpose of this document

Introduction

1. The Serious Crime Act 2015 (the 2015 Act) received royal assent on 3 March 2015. The Act creates a new offence of controlling or coercive behaviour in intimate or familial relationships (section 76). The new offence closes a gap in the law around patterns of controlling or coercive behaviour in an ongoing relationship between intimate partners or family members. The offence carries a maximum sentence of 5 years' imprisonment, a fine or both.
2. This guidance is issued as statutory guidance under section 77 of the 2015 Act. A person investigating offences in relation to controlling or coercive behaviour under section 76 must have regard to it.
3. This offence is constituted by behaviour on the part of the perpetrator which takes place "repeatedly or continuously". 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 victims' day to day activities". 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.
4. Controlling or coercive behaviour should be dealt with as part of adult and/or child safeguarding and public protection procedures.

Audience

5. This guidance is for the police and criminal justice agencies involved in the investigation of offences.
6. The information within this guidance may also be relevant to assist the work of non-governmental organisations and voluntary organisations.
7. This guidance extends to England and Wales only.

Aims of the guidance

8. This guidance provides information on:
 - identifying domestic violence, domestic abuse and controlling or coercive behaviour;
 - circumstances in which the new offence might apply;
 - the types of evidence for the offence;
 - the defence.

Section 2 – The offence of controlling or coercive behaviour

The rationale for the offence

9. The offence closes a gap in the law around patterns of controlling or coercive behaviour that occurs during a relationship between intimate partners, former partners who still live together or family members. This offence sends a clear message that this form of domestic abuse can constitute a serious offence particularly in light of the violation of trust it represents and will provide better protection to victims experiencing repeated or continuous abuse. It sets out the importance of recognising the harm caused by coercion or control, the cumulative impact on the victim and that a repeated pattern of abuse can be more injurious and harmful than a single incident of violence.

“Not only is coercive control the most common context in which [women] are abused, it is also the most dangerous”

Evan Stark (2007) Coercive Control. How Men Entrap Women in Personal Life. New York: Oxford University Press.

Understanding controlling or coercive behaviour

10. Controlling or coercive behaviour does not relate to a single incident, it is a **purposeful pattern of behaviour** which takes place over time in order for one individual **to exert power, control or coercion over another**.
11. **This new offence focuses responsibility and accountability on the perpetrator who has chosen to carry out these behaviours.**
12. The cross-Government definition of domestic violence and abuse¹ outlines controlling or coercive behaviour as follows:
- **Controlling behaviour is:** 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.
 - **Coercive behaviour is:** 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.”²

¹ The definition is supported by the following explanatory text: ‘This definition, which is not a legal definition, includes so called ‘honour’ based violence, female genital mutilation (FGM) and forced marriage, and is clear that victims are not confined to one gender or ethnic group.’

² The cross-government definition of domestic violence and abuse is not a legal definition and includes so called ‘honour’ based violence, female genital mutilation (FGM) and forced marriage, and is clear that victims are not confined to one gender or ethnic group.

Types of behaviour

The types of behaviour associated with coercion or control may or may not constitute a criminal offence in their own right. It is important to remember that the presence of controlling or coercive behaviour does not mean that no other offence has been committed or cannot be charged. However, the perpetrator may limit space for action and exhibit a story of ownership and entitlement over the victim. Such behaviours might include:

- isolating a person from their friends and family;
- depriving them of their basic needs;
- monitoring their time;
- monitoring a person via online communication tools or using spyware;
- taking control over aspects of their everyday life, such as where they can go, who they can see, what to wear and when they can sleep;
- depriving them of access to support services, such as specialist support or medical services;
- repeatedly putting them down such as telling them they are worthless;
- enforcing rules and activity which humiliate, degrade or dehumanise the victim;
- forcing the victim to take part in criminal activity such as shoplifting, neglect or abuse of children to encourage self-blame and prevent disclosure to authorities;
- financial abuse including control of finances, such as only allowing a person a punitive allowance;
- threats to hurt or kill;
- threats to a child;
- threats to reveal or publish private information (e.g. threatening to 'out' someone).
- assault;
- criminal damage (such as destruction of household goods);
- rape;
- preventing a person from having access to transport or from working.

This is not an exhaustive list

13. Controlling or coercive behaviour does not only happen in the home, the victim can be monitored by phone or social media from a distance and can be made to fear violence on at least two occasions or adapt their everyday behaviour as a result of serious alarm or distress.

Where the offence applies

14. For the offence to apply:

- The controlling or coercive behaviour must take place “repeatedly or continuously”. Continuously means on an ongoing basis. This could mean, but is not limited to, actions which cause the victim to change their way of living. Behaviour displayed on only one occasion would not amount to repeated or continuous behaviour and courts may look for evidence of a pattern of behaviour established over a period of time rather than, for example, one or two isolated incidents which do not appear to establish a pattern. However, each case must be considered on an individual basis, there is no set number of incidents in which controlling or coercive behaviour has been displayed which must be proved. As much evidence as possible must be gathered to show that the behaviour is of a repetitive or continuous nature. The Act does not specify a timeframe between the incidents of the behaviour when it takes place repeatedly, therefore, the occurrences do not necessarily have to take place in immediate succession. However, two such controlling incidents taking place 10 years apart (for example) are unlikely to be sufficient, because it is unlikely that this will be considered to be behaviour that is occurring “repeatedly or continuously”.
- The pattern of behaviour has to have a “serious effect” on the victim- this means that they have been caused to EITHER **fear that violence will be used against them on “at least two occasions”**, OR **they have been caused serious alarm or distress which has a substantial adverse effect³ on the victim’s usual day-to-day activities**, this will usually require there to have been more than one incident. The offence does not state that the victim must fear violence that may be committed by the perpetrator only. For example, the victim may fear that the perpetrator has asked another person to commit violence against them.
- The behaviour must be such that the perpetrator knows or “ought to know” that it will have a serious effect on the victim. “Ought to know” means that which a reasonable person in possession of the same information would know.
- The perpetrator and victim have to be personally connected when the incidents took place- meaning that at the time the incidents took place they were in an **intimate personal relationship (whether they lived together or not) or they lived together and were family members⁴**, or they **lived together** and had **previously been in an intimate personal relationship**. It is not necessary for the perpetrator and victim to still be cohabiting or in a relationship when the offence is reported as long as the incidents took place when they were “personally connected”, and after the offence came into force. If they were not personally connected, or the incidents took place after a relationship/cohabitation, the stalking and harassment legislation may apply.

³ This may include, but is not limited to: the victim stopping or changing the way they socialise; physical or mental health deterioration; a change to their routine at home including those associated with mealtimes or household chores; the victim putting in place measures in their home to safeguard themselves or their children; changing working patterns, employment status or routes to work.

⁴ See subsection (6) of section 76 of the Serious Crime Act 2015 for a list of family members

Stalking and Harassment

15. Case law suggests that the current law on stalking and harassment⁵ does not apply to controlling or coercive behaviour that takes place in an ongoing intimate relationship⁶. The offence of controlling or coercive behaviour closes this gap in the law as it can take place in an ongoing relationship. The police should draw on their experience of evidencing an offence committed over a period of time in order to prove stalking or harassment offences. The status of the relationship at the time the offence took place should help determine which offence applies.
16. There may be cases where the victim and perpetrator are no longer living together or in a relationship, and the perpetrator is still attempting to exert control over the victim, for example, by stalking or monitoring the victim, or threatening or intimidating them. In such cases stalking and harassment legislation should be used.
17. Stalking can involve fixation or obsession. Two new offences of stalking were added to the Protection from Harassment Act 1997 in the Protection of Freedoms Act 2012. See:
- [CPS legal guidance on stalking and harassment](#)
 - [Home Office circular a change to the Protection from Harassment Act 1997](#)
 - [College of Policing guidance](#)
 - [CPS / Police protocol on the appropriate handling of stalking offences](#)
 - [College of Policing briefing note for amendments to the protection of harassment act 1997](#)
 - [College of Policing training on Public Protection including stalking and harassment](#)

Where the offence does not apply

18. The offence targets persistent patterns of abuse that occur over time in order for an individual to exert power, control or coercion over another.
19. The offence would not apply where:
- the victim and the perpetrator were not “personally connected” at the time the behaviour occurred. In such circumstances it should be considered whether a course of conduct can be evidenced with a view to bringing charges under existing stalking and harassment legislation;
 - the behaviour in question is perpetrated against a child under 16 by someone aged 16 or over who has responsibility for that child (see subsection (3)). This is because the criminal law, in particular the child cruelty/ neglect offence in section 1 of the Children and Young Persons Act 1933 as amended by section 66 of the 2015 Act, already covers such behaviour;
 - the behaviour is not taking place repeatedly or continuously, for example, it was truly one-off behaviour;
 - the behaviour does not have a “serious effect” on the victim as defined by the law.

This is not an exhaustive list

⁵ Protection from Harassment Act 1997

⁶ See Court of Appeal case law (R v Curtis [2010] 3 All ER 849 and R v Widdows [2011] EWCA Crim 1500).

The gendered nature of controlling or coercive behaviour

20. While all legislation is gender neutral, and men can also be victims of this offence, statistics consistently show that women and girls are disproportionately affected by crimes of domestic violence and abuse.
21. In 2014/15, 92.4% of defendants in domestic abuse flagged cases were male. Where recorded, the proportion of female victims has remained steady at 84%, since 2010-11 (CPS Violence Against Women and Girls Crime Report 2014/15).
22. Controlling or coercive behaviour is primarily a form of violence against women and girls and is underpinned by wider societal gender inequality. This can contribute to the ability of the offender to retain power and control, and ultimately the ability of the victim to access support and leave safely. It is, therefore, important to consider the role of gender in the context of power and control within a relationship when identifying controlling or coercive behaviour in heterosexual relationships.

Other considerations

23. 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. Perpetrators may try to exploit such vulnerabilities in order to maintain control, or try to prevent the victim from seeking help. Examples may include:
 - **Impairment** -Victims may face additional forms of violence related to any impairment (this includes physical disability, mental health difficulties, learning difficulties and long term health conditions). For example, perpetrators may think that a disabled person or a person with learning difficulties will not be believed by the police or in court, or could be prevented from reporting a crime to the police. The [Mental Capacity Act 2005](#) covers people in England and Wales who cannot make some or all decisions for themselves. Special measures, including the use of an intermediary, may be available in some cases in order to address some of the difficulties that witnesses with a disability or learning difficulties may have.
 - **Ethnicity**- Those from black and minority ethnic (BME) backgrounds may experience additional barriers to receiving help or reporting abuse. This may include a distrust of the police, concerns about racism, language barriers, concerns about family finding out, or fear of rejection by the wider community.
 - **Immigration status**- Those subject to immigration control may face additional barriers when attempting to escape domestic abuse. These circumstances may make them more reluctant to come forward and report abuse. Such circumstances may also be exploited by perpetrators to exert control over victims, for example, by threatening to inform immigration authorities, or to no longer support their stay. In some circumstances victims may be allowed to stay in the UK if they can show they have experienced domestic abuse in a relationship with a British person or settled partner (see [UK Visas and Immigration website](#))

- **Fear of losing children**– A victim may be fearful of their children being taken away if they make a report and the perpetrator may have tried to convince them that this is the case.
- **Financial abuse**- this can be 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.
- **Drugs and alcohol**- Victims may also use alcohol or drugs as a coping mechanism, or to block out what is happening to them. Some victims may also be forced into drug taking by the perpetrator in order to exert control over them.
- **Lesbian, gay, bisexual & transgender (LGB&T) individuals in relationships** may also experience specific forms of abuse that may act as barriers to seeking help, such as threats to reveal sexual orientation to family, or others⁷. It should be considered that where the perpetrators of the abuse are current or ex-partners these may be either a same sex partner or a former heterosexual partner. Whilst gender identity should not be conflated with sexual orientation, they may still suffer the same types of abuse such as threats of being “outed”, being denied access to medication, or being denied access to support services.
- **Forced Marriage** - Controlling or coercive behaviour may also occur in forced marriage cases. A clear distinction must be made between a forced marriage and arranged marriage (see definitions section). Forcing someone to marry against their will is a criminal offence under the Anti-social Behaviour Crime and Policing Act 2014 – [see section 121 for the England and Wales offence.](#)
- **“So called” “Honour Based” Violence/Abuse (HBV)** - Controlling or coercive behaviour may also occur in HBV cases. The use of other people to exert control over an individual or to coerce them might be particularly relevant in HBV cases. HBV is an umbrella term to encompass various offences covered by existing legislation, including Forced Marriage and Female Genital Mutilation. The CPS uses the following definition: *“a crime or incident which has or may have been committed to protect or defend the honour of the family and/or community.”*
- HBV can include a collection of behaviours which are used to maintain control within families or other social groups. The risks can be high as there may be many abusers in the extended family or community networks. Other people in the family or community may pressure the victim to return to abusive situations or fail to support them. It is important to understand HBV in the context of violence against women and girls and consider the risks to all women and girls in the family.

⁷ Hestia et al, 2012 published by University of Bristol
<http://www.bristol.ac.uk/medialibrary/sites/sps/migrated/documents/domesticsexualviolencesupportneeds.pdf>

- **Age-** The offence applies to anyone of the age of criminal responsibility (those aged 10 years and above) unless the behaviour in question is perpetrated against a child under 16 by someone aged 16 or over who has responsibility for that child (see subsection (3)). Where a victim is aged 18 and under child safeguarding procedures should be followed, regardless of whether there is any police action. **An older person** may be the victim of **elder abuse**, this may include: financial, emotional, psychological, sexual physical or neglect. This can affect both men and women. The people carrying out the abuse are often in a position of trust such as a family relationship.
 - **Adolescent to parent violence and abuse (APVA)** - There is currently no legal definition of adolescent to parent violence and abuse. However, it is increasingly recognised as a form of domestic violence and abuse. Depending on the age of the child, it may fall under the government's official definition of domestic violence and abuse. It is important that a young person using abusive behaviour against a parent receives a safeguarding response regardless of whether there is any police action taken. The statutory guide to inter-agency working to safeguard and promote the welfare of children, '[Working Together to Safeguard Children](#)' sets out what professionals and organisations need to do to safeguard children. Responders should also use their discretion and professional judgement when addressing cases of APVA. See the Home Office guide on [Adolescent to Parent Violence](#) for more information.
24. Specialist services are available for all of these groups and it is important to consider making a referral or signposting to support services where people may have additional needs or barriers.
25. While it should not be assumed that the presence of additional needs will automatically indicate vulnerability, awareness of these factors is important as it can highlight issues requiring a different approach. The CPS has published a [toolkit for prosecutions in VAWG cases involving vulnerable victims](#). Police should refer to the [risk and vulnerability](#) section of the College of Policing Authorised Professional Practice for Abuse.

These examples are not an exhaustive list.

Section 3 – Police investigations

Criminal investigations should follow national and local police guidance for investigating domestic abuse

Further documents refer:

- [Authorised Professional Practice on Domestic Abuse \(2015\)](#).
- [Police/CPS Evidence Gathering Checklist](#)
- [Police/CPS Charging Advice Sheet](#).
- Risk Identification, Assessment and Management Model for Police Staff – such as the Domestic Abuse, Stalking and Harassment and Honour Based Violence (DASH Risk Model) (2009).
- [Working Together to Safeguard Children](#) (Statutory Guidance)
- Section 120 of the Adoption and Children Act 2002 clarifies the definition of significant harm (outlined in the Children Act 1989) as “any impairment of the child’s health or development as a result of witnessing the ill-treatment of another person, such as domestic violence”. Professionals have a duty to act to safeguard children by making a referral to social services where required.
- Adult Safeguarding Statutory guidance, [Care Act 2014 \(Statutory Guidance\)](#).
- The College of Policing has developed training on domestic violence and abuse.
- Police should also refer to their local protocols for safeguarding adults and children.

Identifying the offence

26. Victims of controlling or coercive behaviour may not recognise themselves as such. Therefore, it is important that the new offence is considered by the police and other authorities in attendance at all call-outs including those of domestic violence and abuse.
27. A thorough approach on a first visit may enable police officers to uncover evidence in relation to the new offence, see [College of Policing Checklist Actions on Arrival at the Scene](#) and the [Police/CPS Evidence Gathering Checklist](#). Safe inquiry with the victim and proper risk identification and assessment will be paramount in investigating a possible occurrence of the offence in order to bring to light evidence of a pattern of abuse. Asking questions about rules, decision making, norms and fear in the relationship, rather than just what happened. Building trust can help to elicit a disclosure and it may be appropriate to tailor the response for the victim. For example, for female victims it may be helpful to offer for a female officer to attend. It is also important to consider providing information about support services the [College of Policing toolkit](#) sets out questions for interviews and investigators.
28. It is important to **consider the wider context** and the **potential evidence for these patterns of controlling or coercive behaviour**. For example, where a physical assault has occurred controlling or coercive behaviour may also be present that may have had a “serious effect” on the victim. In such circumstances the memory of the assault could also be used by the perpetrator as a further basis for controlling or coercive behaviour. If there have been at least two occasions which caused the victim to fear that violence will be used against them, or the alleged perpetrator’s “repeated or continuous” behaviour has caused the victim

“serious alarm or distress which has a substantial adverse effect on their usual day-to-day activities”, then the offence may apply. It should be noted that evidencing the new offence does not require two call outs to the police to have occurred.

29. The offence of controlling or coercive behaviour does not have retrospective effect. This means that charges cannot be brought in relation to behaviour(s) that occurred before the date the offence comes into force. However, behaviour that occurred before implementation may still be adduced as evidence of bad character and any evidence relating to it should be passed to the CPS⁸ who can consider making an application to the court.
30. Good intelligence and record keeping will be important to ensure that evidence is documented and kept in relation to any incidents of domestic violence and abuse that come to light. This includes previous incidents disclosed by the victim. If historic offences are disclosed they should be logged as per National Crime Recording Standards and flagged appropriately as domestic abuse.
31. It may also be possible to charge for **multiple offences**. For example, a person could be charged with common assault or rape and controlling or coercive behaviour. The CPS⁹ will be able to advise on what combination of charges are most appropriate but it is important to remember that the presence of controlling or coercive behaviour does not mean that no other offence has been committed or cannot be charged.

Offender tactics

32. Perpetrators can be particularly adept at manipulating professionals, agencies and systems, and may use a range of tactics in relation to this offence, including:
- targeting people who might be vulnerable (there may be evidence of this from previous relationships);
 - causing or creating vexation- using the system against the victim by making false or vexatious allegations to agencies. The Police should examine whether this has been a feature in previous relationships. The Authorised Professional Practice on [Investigating Domestic Abuse issued by the College of Policing states](#): “A manipulative perpetrator may be trying to draw the police into colluding with their coercive control of the victim. Police officers must avoid playing into the primary perpetrator’s hands and take account of all available evidence when making the decision to arrest;”
 - attempting to frustrate or interfere with the police investigation;
 - making counter allegations against the victim;
 - using threats of manipulation against the victim. For example, by telling the victim that they will make a counter-allegation against them, that the victim will not be believed by the police or other agencies, that they will inform social services, or that they will inform immigration officials where the victim does not have a right to remain;

See [table 1](#) of the CPS Toolkit for Prosecutors on Violence Against Women and Girls Cases Involving a Vulnerable Victim on assessing the credibility and understanding offender tactics.

33. If you are unsure of whether the new offence may apply in a specific case then speak to the CPS¹⁰. If you require advice about controlling or coercive behaviours generally in relation to

8,9,10 Service Police and Commanding Officers should refer to the Service Prosecuting Authority (SPA) rather than the CPS.

domestic abuse you can speak to a local specialist service provider or Independent Domestic Violence Advisor (IDVA). If the advice is on a specific case you will need the victim's permission to seek it. See Police/CPS [Charging Advice Sheet](#).¹¹

Definitions

Intimate personal relationships

- The offence applies to couples where the behaviour took place when they were in an "intimate personal relationship", whether they lived together or not. (Subsection(2)).

Family Members

- For the purposes of the offence family members as defined in subsection (6) must live together when the behaviour took place (otherwise harassment legislation may apply). It does not include roommates who are not in an intimate relationship.
- Abuse can be perpetrated by adults and young people, for example, child to parent violence and elder abuse.

Counter allegations

- In some cases there may be counter allegations made against the victim by the alleged perpetrator. Where suspicions are prompted that counter allegations may be false it should be considered whether the alleged perpetrator may be making those claims to negate allegations against themselves, or to cause further harassment of the alleged victim. It will be important to explore and consider all of the available evidence in such circumstances.
- See section in CPS Domestic Abuse Legal Guidance on '[Self-Defence and Counter Allegations](#)' and section in College of Policing APP on Investigating Domestic Abuse on [Determining the Primary Perpetrator and Dealing with Counter Allegations](#).

Serial perpetrators

- A serial perpetrator is someone who has been reported to the police as having committed or threatened domestic abuse against two or more victims. This includes current or former intimate partners and family members. See CPS guidance on '[Previous domestic abuse and serial perpetrators](#)'

Types of evidence

34. Examples of the types of evidence that could be used in relation to this offence include:

- copies of emails;
- phone records;
- text messages;
- evidence of abuse over the internet, digital technology and social media platforms;
- evidence of an assault;
- photographs of injuries such as: defensive injuries to forearms, latent upper arm grabs, scalp bruising, clumps of hair missing.
- 999 tapes or transcripts;
- CCTV;
- body worn video footage;

¹¹ The domestic abuse charging advice sheet has been prepared for Police Officers and Prosecutors to further clarify the existing requirements around police referral of domestic abuse cases to the CPS in accordance with the Edition of the Director's Guidance on Charging.

- lifestyle and household including at scene photographic evidence;
- records of interaction with services such as support services, (even if parts of those records relate to events which occurred before the new offence came into force, their contents may still, in certain circumstances, be relied on in evidence);
- medical records;
- witness testimony, for example the family and friends of the victim may be able to give evidence about the effect and impact of isolation of the victim from them.
- local enquiries: neighbours, regular deliveries, postal, milk delivery, window cleaner etc;
- bank records to show financial control;
- previous threats made to children or other family members;
- diary kept by the victim;
- victims account of what happened to the police, however this is not the only evidence that can be used to prove a case;
- evidence of isolation such as lack of contact between family and friends, victim withdrawing from activities such as clubs, perpetrator accompanying victim to medical appointments.

Please note this is not an exhaustive list.

35. Further examples of evidence can be found in the [Investigative Development](#) section of the College of Policing Authorised Professional Practice for Domestic Abuse.
36. Agencies including the police should consider safe ways in which the victim could keep records of what is happening to them. This could include: keeping text messages or sending them on to a friend for safekeeping, taking screen shots of emails and social media messages, and keeping a diary. However, it is important to remember that it is the job of the police to build the case for the victim, and not the job of the victim to build the case for the police.
37. [Section 8 of the Police and Criminal Evidence Act 1984](#) will apply 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. See the [College of Policing toolkit for financial investigations](#).
38. The police should also be aware that in cases of domestic violence and abuse where there is not enough evidence to charge for a physical injury, there may be enough evidence to charge for the new offence of controlling or coercive behaviour.
39. Effective evidence gathering is crucial to the prosecution case, particularly where a victim withdraws from the case. Investigators should refer to the [Police/CPS Evidence Gathering Checklist](#).
40. Sometimes, victims will ask the police not to proceed any further with the case and say that they no longer wish to give evidence. There may be a number of explanations for this. This does not mean that the case will automatically be stopped. See [CPS Domestic Abuse Legal Guidance on withdrawals and retractions](#).
41. Under the [Victims' Code](#), the police must offer a domestic abuse victim the opportunity to make a victim personal statement (VPS), even if they have not given any other witness

statement. See [College of Policing APP on Investigating Domestic Abuse](#). Service Police and Commanding Officers should consult the 'Armed Forces Code of Practice for the Victims of Crime'.

- 42. In all domestic violence and abuse cases if firearms are held by the perpetrator or in the household the local police force Firearms Licensing Team should be notified so that consideration can be given to revoking any licence that the perpetrator may hold. It is also important in terms of risk mitigation and intelligence to ensure officers attending future calls have this information.**

How support services can assist

43. The police should follow their local protocols and guidance including risk assessment procedures and make referrals to specialist support services such as IDVA, MARAC and helplines where required.
44. Support services can assist by supporting the victim to engage with the criminal justice process. Providing specialist support can better assist in preventing the victim from withdrawing from the case. This can also support case building, for example, by providing service records, case records and records of contact made with helplines which may act as evidence for the offence. There is also specialist support to help perpetrators to change their behaviour. Information can be obtained from [Respect](#) or local programmes. A referral to a perpetrator programme should only be made in conjunction with specialist advisers and following appropriate risk assessment.

How other services can assist

45. There is a range of support services that may hold information that could be used as evidence for this offence, for example, medical records, case notes from other services such as mental health or drug and alcohol services. Contextual evidence may be available from housing services that may have been called out to breach of the peace or have records of damage to property such as holes in walls or complaints from other tenants. Due regard should be given to any data protection requirements, including the [Data Protection Act 1998](#), when sharing information.

Section 4 – The defence

46. Subsections (8) to (10) of Section 76 of the Act provide for a defence where the suspect or defendant believes he or she was acting in the best interests of the victim and can show that in the particular circumstances their behaviour was objectively reasonable.
47. **The defence outlined above is not available to those who have caused another person to fear that violence could be used against them.**
48. In order to be able to rely on the defence, a defendant needs to show that they believed that they were acting in the best interests of the victim and that their actions were reasonable in the circumstances. Therefore, a person who genuinely believed that they were acting in the other person's best interests but where a reasonable person with access to the same information would not find that behaviour to have been reasonable would not be able to rely on the defence.
49. For example, it is not just a question of A saying "I think it was in B's best interests." There is an objective element to the defence that allows a magistrates' court or a Crown Court jury to reject the defence where they find that the behaviour of the defendant was not reasonable in all the circumstances.

Section 5 – Maximum penalties

Maximum penalties

50. By virtue of section 76(11) of the 2015 Act, and the transitional provision in section 86(14)(e), the maximum penalty on summary conviction of the offence will be six months imprisonment. On the commencement of section 154(1) of the Criminal Justice Act 2003, the maximum sentence on summary conviction will rise to 12 months imprisonment. The maximum penalty on conviction on indictment is five years imprisonment. Ancillary orders can also be made upon sentence (e.g. compensation order), or conviction (e.g. criminal behaviour orders or restraining orders). Restraining orders are also available¹² on acquittal.

51. See Sentencing council overarching principles on domestic abuse:

<http://www.sentencingcouncil.org.uk/publications/item/overarching-principles-domestic-violence-definitive-guideline/>

¹² See Section 5A, Protection from Harassment Act 1997 as amended: <http://www.legislation.gov.uk/ukpga/1997/40/section/5>

Here are some examples of existing offences that may apply in domestic violence and abuse cases

Domestic violence offence (England & Wales)	Statutory provision or common law (England & Wales)
Threats to kill	Offences Against the Person Act 1861 s16
Shooting or attempting to shoot, or wounding, with intent to do grievous bodily harm	Offences Against the Person Act 1861 s18
Inflicting bodily injury with or without weapon	Offences Against the Person Act 1861 s20
Attempting to choke, etc. in order to commit any indictable offence	Offences Against the Person Act 1861 s21
Maliciously administering poison, etc. so as to endanger life or inflict grievous bodily harm	Offences Against the Person Act 1861 s23
Maliciously administering poison, etc. with intent to injure, aggrieve, or annoy any other	Offences Against the Person Act 1861 s24
Causing gunpowder to explode, or sending to any person an explosive substance, or throwing corrosive fluid on a person, with intent to do grievous bodily harm	Offences Against the Person Act 1861 s29
Assault occasioning bodily harm	Offences Against the Person Act 1861 s47
Child destruction	Infant Life (Preservation) Act 1929 s1
Cruelty to persons under sixteen	Children and Young Persons Act 1933 s1
Rape	Sexual Offences Act 1956 s1 Sexual Offences Act 2003 s1
Procurement of woman by threats	Sexual Offences Act 1956 s2
Administering drugs to obtain or facilitate intercourse	Sexual Offences Act 1956 s4
Indecent assault on a woman	Sexual Offences Act 1956 s14
Indecent assault on a man	Sexual Offences Act 1956 s15
Procuring a miscarriage	Abortion Act 1967 s5(2)
Theft	Theft Act 1968 s7
Blackmail	Theft Act 1968 s21
Destroying or damaging property	Criminal Damage Act 1971 s1
Threats to destroy or damage property	Criminal Damage Act 1971 s2
Violence for securing entry	Criminal Law Act 1977 s6
Abduction of child by parent	Child Abduction Act 1984 s1
Abduction of child by other persons (not parent)	Child Abduction Act 1984 s2
Affray	Public Order Act 1986 s3
Fear or provocation of violence	Public Order Act 1986 s4
Intentional harassment, alarm or distress	Public Order Act 1986 s4A
Harassment, alarm or distress	Public Order Act 1986 s5
Offence of sending letters etc. with intent to cause distress or anxiety	Malicious Communications Act 1988 s1
Common assault and battery	Criminal Justice Act 1988 s39
Intimidation etc. of witnesses, jurors and others	Criminal Justice and Public Order Act 1994 s51
Breaching non-molestation order	Family Law Act 1996 s42A
Breach of forced marriage protection order	Family Law Act 1996 s63CA
Harassment (note case law dictates this does not apply in ongoing intimate relationships)	Protection from Harassment Act 1997 s2 s4
Stalking (note case law dictates this does not apply in	Protection from Harassment Act 1997 s2A

ongoing intimate relationships)	amended by Protection of Freedom Act 2012
Putting people in fear of violence	Protection from Harassment Act 1997 s4
Stalking involving fear of violence or serious alarm or distress	Protection from Harassment Act 1997 s4A
Racially or religiously aggravated assault	Crime & Disorder Act 1998 s29
Racially or religiously aggravated criminal damage	Crime & Disorder Act 1998 s30
Racially or religiously aggravated public order offences	Crime & Disorder Act 1998 s31
Racially or religiously aggravated harassment etc	Crime & Disorder Act 1998 s32
Assault by penetration	Sexual Offences Act 2003 s2
Sexual assault	Sexual Offences Act 2003 s3
Causing a person to engage in sexual activity without consent	Sexual Offences Act 2003 s4
Causing or inciting prostitution for gain	Sexual Offences Act 2003 s52
Controlling prostitution for gain	Sexual Offences Act 2003 s53
Trafficking into the UK for sexual exploitation	Sexual Offences Act 2003 s57
Trafficking within the UK for sexual exploitation	Sexual Offences Act 2003 s58
Trafficking out of the UK for sexual exploitation	Sexual Offences Act 2003 s59
Administering a substance with intent to commit a sexual offence	Sexual Offences Act 2003 s61
Committing an offence with intent to commit a sexual offence	Sexual Offences Act 2003 s62
Trespass with intent to commit a sexual offence	Sexual Offences Act 2003 s63
Improper use of public electronic communications network	Communications Act 2003 s127
Breach of non-molestation order	Domestic Violence, Crime & Victims Act 2004 s1
Trafficking people for exploitation	Asylum and Immigration (Treatment of Claimants, etc) Act 2004 s4 now superseded by the offence at section 2 of Modern Slavery Act 2015.
Kidnapping	Common law
False imprisonment	Common law
Perverting the course of public justice	Common law
Aiding, abetting, counselling, or procuring the commission of: (a) an indictable offence listed in this table; or (b) the offence of attempted murder	Accessories and Abettors Act 1861 s8
The offence of conspiracy in relation to: (a) an indictable offence listed in this table; and (b) the offence of murder	Criminal Law Act 1977 s1
Attempting to commit an offence in relation to: (a) an indictable offence listed in this table and (b) the offence of murder	Criminal Attempts Act 1981 s1
Encouraging or assisting an offence (inchoate offences) in relation to: (a) an indictable offence listed in this table; and (b) the offence of murder	Serious Crime Act 2007 ss44-46
Incitement (pre 1 October 2008) in relation to: (a) an indictable offence listed in this table; and (b) the offence of murder	Common law

Disclosing private sexual photographs and films with intent to cause distress (revenge pornography).	Criminal Justice and Courts Act 2015, s33
Forced Marriage	Anti Social Behaviour, Crime and Policing Act 2014, s10.

The offence of controlling or coercive behaviour

Section 76 of the Serious Crime Act 2015 provides that:

(1) A person (A) commits an offence if—

- (a) A repeatedly or continuously engages in behaviour towards another person (B) that is controlling or coercive,
- (b) at the time of the behaviour, A and B are personally connected,
- (c) the behaviour has a serious effect on B, and
- (d) A knows or ought to know that the behaviour will have a serious effect on B.

(2) A and B are “personally connected” if—

- (a) A is in an intimate personal relationship with B, or
- (b) A and B live together and—
 - (i) they are members of the same family, or
 - (ii) they have previously been in an intimate personal relationship with each other.

(3) But A does not commit an offence under this section if at the time of the behaviour in question—

- (a) A has responsibility for B, for the purposes of Part 1 of the Children and Young Persons Act 1933 (see section 17 of that Act), and
- (b) B is under 16.

(4) A’s behaviour has a “serious effect” on B if—

- (a) it causes B to fear, on at least two occasions, that violence will be used against B, or
- (b) it causes B serious alarm or distress which has a substantial adverse effect on B’s usual day-to-day activities.

(5) For the purposes of subsection (1)(d) A “ought to know” that which a reasonable person in possession of the same information would know.

(6) For the purposes of subsection (2)(b)(i) A and B are members of the same family if—

- (a) they are, or have been, married to each other;
- (b) they are, or have been, civil partners of each other;
- (c) they are relatives;
- (d) they have agreed to marry one another (whether or not the agreement has been terminated);
- (e) they have entered into a civil partnership agreement (whether or not the agreement has been terminated);
- (f) they are both parents of the same child;
- (g) they have, or have had, parental responsibility for the same child.

(7) In subsection (6)—

- “civil partnership agreement” has the meaning given by section 73 of the Civil Partnership Act 2004;

- “child” means a person under the age of 18 years;
- “parental responsibility” has the same meaning as in the Children Act 1989;
- “relative” has the meaning given by section 63(1) of the Family Law Act 1996.

(8) In proceedings for an offence under this section it is a defence for A to show that—

- (a) in engaging in the behaviour in question, A believed that he or she was acting in B’s best interests, and
- (b) the behaviour was in all the circumstances reasonable.

(9) A is to be taken to have shown the facts mentioned in subsection (8) if—

- (a) sufficient evidence of the facts is adduced to raise an issue with respect to them, and
- (b) the contrary is not proved beyond reasonable doubt.

(10) The defence in subsection (8) is not available to A in relation to behaviour that causes B to fear that violence will be used against B.

(11) A person guilty of an offence under this section is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both;
- (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or a fine, or both.

Legal power for statutory guidance

Section 77 of the Serious Crime Act 2015 provides that:

Guidance about investigation of offences under section 76

- (1) The Secretary of State may issue guidance about the investigation of offences under section 76 to whatever persons the Secretary of State considers appropriate.
- (2) The Secretary of State may revise any guidance issued under this section.
- (3) The Secretary of State must arrange for any guidance issued or revised under this section to be published.

Definitions

Domestic violence and abuse

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 sexual orientation. This can encompass, but is not limited to, the following types of abuse:

- psychological;
- physical;
- sexual;
- financial;
- emotional*

Controlling behaviour is: 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.

Coercive behaviour is: an 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.”

*The cross-government definition of domestic violence and abuse is not a legal definition and includes so called ‘honour’ based violence, female genital mutilation (FGM) and forced marriage, and is clear that victims are not confined to one gender or ethnic group.

Forced Marriage

A forced marriage is a marriage in which either or both spouses do not consent, or lack the capacity to consent, to the marriage and duress is involved. This can include physical, sexual, psychological, financial and emotional pressure.

Forcing someone to marry is a criminal offence in England, Wales, and Scotland. The legislation is part of the Anti-social Behaviour, Crime and Policing Act 2014, and came into force on 16 June 2014 in England and Wales and on 30 September 2014 in Scotland– see section 121 (England and Wales) and section 122 (Scotland).

The legislation criminalises the use of violence, threats, deception or any other form of coercion for the purpose of forcing a person into marriage or into leaving the UK with the intention of forcing that person to marry.

A forced marriage is very different from an arranged marriage. In an arranged marriage, families may play a role in choosing and introducing partners. The choice of whether or not to accept the arrangement should remain with the prospective spouses. In other words – the key thing to focus on is choice – individuals should always be able to freely choose whom they do or do not marry.

www.gov.uk/forced-marriage

“So called” “honour based violence”

“So called” “honour based” violence (HBV) is an umbrella term to encompass various offences covered by existing legislation, including forced marriage and female genital mutilation. The CPS uses the following definition: *“ a crime or incident which has or may have been committed to protect or defend the honour of the family and/or community.”*

“Honour based violence” or “honour” crime is an act of violence explained by the abuser as being committed in order to protect or defend the “honour” of the family/community. In HBV, the risks can be high as there may be many abusers in the extended family or community networks. Other people in the family or community may pressure the victim to return to abusive situations or fail to support them. It is important to understand HBV in the context of violence against women and girls and consider the risks to all women and girls in the family.

Stalking

There is no legal definition of stalking. However, experts agree that ‘it is a long term pattern of unwanted and persistent pursuit and intrusive behaviour directed by one person to another that engenders fear and distress in the victim’.

The [Protection of Freedoms Act 2012](#) inserted two new stalking offences into the Protection from Harassment Act 1997 – see section 2A(stalking) and section 4A (stalking involving fear of violence or serious alarm/distress).

Stalking includes repeated attempts to impose unwanted communications and/or contacts on another in a manner that could be expected to cause distress and/or fear in any reasonable person.

Checklist for police officers

- Be alert to patterns of controlling or coercive behaviours as well as incidents of domestic violence and abuse;
- Take into account gender, sexual orientation, other protected characteristics (as set out in the Equality Act 2010) and any vulnerabilities, avoid making assumptions based on stereotypes;
- Recognise the barriers that may exist for victims to disclose information or seek support i.e. fear of the perpetrator, fear that they may not be believed, pressures from family or the community, negative past experiences with the police or services, a desire to make the relationship work, financial barriers, not wanting to uproot the children etc.;
- Building trust can help people to disclose;
- Be alert that domestic abuse can involve the wider family particularly where there is forced marriage or wider caring responsibilities;
- Carry out safe enquiry, follow risk identification , assessment and management procedures and make referrals to local specialist support services where required and consider signposting to the national domestic violence helpline.;
- Follow your local procedures for safeguarding adults and children;
- Act to safeguard children by making a referral to social services where required;
- Consider that the perpetrator may also need support to change their behaviour and consider referring them in conjunction with any specialist view to the Respect Helpline or local programmes;
- Investigate the history of the relationship and recognise the dynamics including any power imbalance and consider how this impacts on the victim in terms of gender, age, finances, LGB&T etc.;
- Record any crimes and any previous incidents and place a domestic abuse flag on them, following National Crime Recording Standards;
- Look at the perpetrator's offending history and any other relevant information and take this into account;
- Consider any breaches of civil or other orders by the perpetrator such as DVPOs, Restraining Orders, Non-Molestation Orders, other Court Orders, Bail conditions etc.
- [Also see CPS/ Police Evidence Gathering Checklist](#)