

14 November 2022

Our ref: HS:DFV

Consultation Team  
National Principles to Address Coercive Control  
Attorney-General's Department

By email: [REDACTED]

Dear Consultation Team

### **Draft National Principles to Address Coercive Control**

Thank you for the opportunity to provide feedback on the Draft National Principles to Address Coercive Control (**draft principles**). The Queensland Law Society (**QLS**) appreciates being consulted on this important work.

This response has been compiled by the QLS Domestic and Family Violence Committee, whose members have substantial expertise in this area. Several members of our committee also attended the roundtable conducted by KPMG on 6 October 2022.

QLS is supportive of national principles being developed in order to aid in consistency of lawmaking across jurisdictions and to aid in community understanding regarding the type of conduct that constitutes coercive control.

QLS generally agrees that the content of the draft principles is comprehensive, accurate and useful as a document aimed at government and non-government agencies working in the field of domestic and family violence.<sup>1</sup> It is less useful for the community in general, as explored further below.

The common features of coercive control are well described in principle 1 and QLS supports the recognition in the current drafting that coercive control is often a significant part of domestic and family violence. QLS cautions against any change to the drafting that would frame coercive control as an essential element of domestic and family violence or the only type of domestic and family violence. Such an approach may have the benefit of highlighting non-physical violence but risks excluding other types of domestic and family violence where the abuse does not involve coercion, control or fear. These difficulties arise with the approach taken in s4AB of the

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<sup>1</sup> The draft principles and background information contained in the consultation document largely align with QLS's extensive comments on coercive control contained in our submission to the Women's Safety and Justice Taskforce dated 15 July 2021, which is available at [https://www.womenstaskforce.qld.gov.au/data/assets/pdf\\_file/0007/692341/wsjt-submission-queensland-law-society.pdf](https://www.womenstaskforce.qld.gov.au/data/assets/pdf_file/0007/692341/wsjt-submission-queensland-law-society.pdf)



*Family Law Act 1975* in which coercion or control of a member of the person's family or causing a family member to be fearful is a precondition of the recognition of family violence.<sup>2</sup>

QLS is pleased to see recognition of the role discrimination and inequality plays in allowing coercive control to occur, increasing the negative effects of coercive control, and preventing victim-survivors from accessing justice and support (including the way in which discrimination and inequality contributes to misidentification of victims as perpetrators). Likewise, QLS supports specific recognition and examples of the way in which discrimination and inequality can impact coercive control perpetrated against Aboriginal and Torres Strait Islander victim-survivors (such as the example given regarding racist policies that have historically supported child removal).

QLS submits that explicit examples should also be included regarding other vulnerable groups, such as older persons, culturally and linguistically diverse women and people with disabilities. It may be more difficult for coercive control perpetrated against some vulnerable people to be recognised in the absence of illustrative examples, particularly if it is occurring outside of a domestic partnership (for example elder abuse committed by an adult child).

In terms of the principles that go towards addressing coercive control, we submit as follows:

- There should be specific reference to the need for governments and agencies to view coercive control as a human rights issue which requires balancing competing rights and principles, such as autonomy (including recognising that victims are the experts in their own lives) and safety.
- There must be recognition that legislative change alone will not solve structural and cultural issues that cause victim-survivors to be apprehensive about reporting/seeking support for coercive control and more must be done to understand why victims are still not being believed.
- National principle 6 should not emphasise reduction of duplication at the expense of recognising that there must be diversity of services to reflect the diversity of people using those services.
- In terms of men's behaviour change programs, there has been long-standing under-resourcing resulting in lack of assistance/unmet need for those perpetrators who would take the opportunity to be accountable for their conduct. Men's programs are also an example of lack of effectively tailored/diverse programs, for example where young first time offenders are grouped with older, long term perpetrators or where no appropriate group programs are available for culturally and linguistically diverse men who require interpreters.

One issue that is underdeveloped in the document is the intersection of coercive control and other areas, including but not limited to family law. The principles are seemingly framed within the context of specific domestic violence legislation and criminalisation of coercive control, which may give the impression that coercive control is not a significant issue in other areas of law. It must be recognised that domestic and family violence, including coercive control, can be


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<sup>2</sup> See the writing on this by Zoe Rathus AM in '[Shifting Language and Meanings between Social Science and the Law: Defining Family Violence](#)' (2013) 26(2) *UNSW Law Journal*, 359 and the later discussion of parenting decisions by Jane Wangmann in 'Different types of intimate partner violence — What do family law decisions reveal?' (2016) 30 *Australian Journal of Family Law* 77.

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an underlying issue when a victim-survivor approaches legal or other service providers in relation to a broad range of topics.

If the draft principles are intended to also help the community better understand coercive control and thereby bring about grassroots cultural change, there may need to be some change to the structure of the document so that the conduct that constitutes coercive control is more clearly drawn out earlier in the document, together with the information about where to access support. Overall, there is a lot of duplication between the two parts of the document and it may be that it could be restructured such that the first portion is more accessible to the community while the in-depth section is targeted at agencies in the domestic and family violence sector.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via 

Yours faithfully



Rebecca Fogerty  
**Vice President**