



The Economic Abuse Reference Group (**EARG**) welcomes the Government's commitment to addressing domestic and family violence through the introduction of National Principles to Address Coercive Control.

Our input is narrowly focused on responses to economic abuse based on casework experience. Coercive control is complex both in nature and in understanding not only by victim survivors, but by the judiciary, the police and the broader community. The EARG recognises that domestic and family violence (DFV) does not occur in a vacuum and requires consideration of other areas of policy and law which interact with DFV such as family law, migration law and social security. Consideration of broader policy and practice is also required for services that support victim survivors such as the DFV sector and the financial services industry.

EARG members are of the view that coercive control, which includes economic abuse, should be recognised as the defining feature of DFV. EARG, particularly its New South Wales chapter, has done extensive work on these issues and we refer to our previous submissions available on [our website](#). From this work we highlight the importance of robust, thorough consultation, systems and cultural reforms especially of the police and judiciary, education for all sectors, and proper funding for frontline services. A note on the language in this submission, we use the terms domestic and family violence and domestic abuse interchangeably.

Economic Abuse Reference Group

The EARG is a national informal group of community organisations which work collectively to influence government and industry responses to reduce the financial impact of family violence. Members include DFV services, community legal services and financial counselling services, and we involve other organisations in our work where relevant.

This submission was prepared with input from New South Wales members and contributors to the EARG. Some of our members have experience (as lawyers or financial counsellors) assisting clients who have experienced coercive controlling behaviours, particularly economic abuse. See more details about EARG members and contributors below at Appendix 1.

Economic Abuse

The new National Plan to End Violence Against Women and Children 2022-2032 identifies economic and financial abuse as one of six key areas of focus for addressing gender-based violence in Australia.

Economic and financial abuse is a common form of DFV. It has significant and devastating impacts at an individual, community and societal level. Economic abuse can take various forms, including accruing debt or other liabilities in the other person's name, not contributing to joint loans, controlling all finances, not making shared financial decisions, withholding necessities, preventing

someone from obtaining or remaining in employment, and stopping someone from accessing education or a means to become financially independent.

Around 85% of women who access DFV services in Australia say that they have experienced some level of financial abuse as part of the coercive control in their relationship.¹ Economic abuse can occur alongside other forms of abuse such as physical, emotional and sexual violence.

A 2017 study into the prevalence of economic abuse between intimate partners found that 11.5% of Australians had experienced it and that women experience it at higher rates (15.7%) than men (7.1%). These gender differences are important because it is well understood that family, domestic and sexual violence is gendered, and that women are the majority of victims and experience more severe consequences.²

Debts are a common factor forcing victim survivors to remain in or return to an abusive relationship. Victim survivors often experience financial impacts long after the relationship has ended.

General comments on the National Principles

Our overarching concern about the National Principles is their capacity to meaningfully inform legislative and policy responses to coercive control, given the states have jurisdiction over the laws primarily relevant to coercive control (for example, criminal and domestic violence legislation) and responses to DFV through the health system, police and judiciary. Multiple definitions and different responses to family violence and coercive control are unhelpful. We believe that the National Principles to address coercive control must provide clear guidance on the strategic focus in responding to coercive control and be more solution focused.

However, while recognising that the Federal Government has limited legislative responsibility in this area, we commend the Government's attempt to encourage some uniformity in approach. We consider the National Principles have potential to support the harmonisation of laws regarding DFV. There are many intersecting laws on a state and federal level that affect victim survivors of financial and economic abuse, with notable examples at the Commonwealth level being the Family Law Act 1975 and the Migration Act 1958. The Government should examine existing state and Commonwealth laws and policies with a view to achieving consistent and effective support for victim survivors across Australia. At the minimum, it would be useful to identify the gaps and inconsistencies between jurisdictions and devise a plan for harmonisation.

While there are national definitions for domestic abuse in various Federal legislative instruments³ in Australia, there is currently no consistent definition or understanding of domestic abuse. Most state jurisdictions in Australia have a definition of DFV that includes forms of abuse such as emotional, psychological, coercive or financial, which would encapsulate coercive controlling behaviours, even if they lack a specific definition or offence of coercive control. We are pleased that NSW has recently recognised examples of economically and financially abusive behaviours in new coercive control legislation, however we have concerns about how this criminal offence will operate in practice. For

¹ <https://www.abs.gov.au/ausstats/abs@.nsf/mf/4906.0/>

² Kutin, J, Russell, R and Reid, M 2017, 'Economic abuse between intimate partners in Australia: Prevalence, health status, disability and financial stress', *Australian and New Zealand Journal of Public Health*, vol. 41, no. 3, pp. 269-274.

³ See for example the definition of family violence contained in the Family Law Act 1975 (Cth), section 4AB, and also the definition in Schedule 2, Regulation 1.21 of the Migration Regulations 1994 (Cth).

more detail on this please see EARG NSW's [submission on the draft Crimes Legislation Amendment \(Coercive Control \) Bill 2022](#).

We are of the view that economic abuse should be specifically recognised and defined in any law and policy changes relating to coercive control. We refer to the recommendations contained in the Australian Law Reform Commission's Final Report 'Family Violence – A National Legal Response' which recommended family violence definitions include economic abuse, to adopt consistent definitions across jurisdictions as well as within the Family Law Act.⁴

Some of our members have expertise in family law and DFV. While family law legislation recognises coercive controlling behaviours including financial abuse, in practice EARG members have not found this to be an effective way of dealing with coercive control. In fact, perpetrators often use the family law system to further abuse victim survivors. Any consideration of new legislation for coercive control must consider the intersections with the family law system. One way to address coercive control is to consider the recommendations made in the ALRC's report as discussed above in relation to harmonisation of family violence definitions across jurisdictions.⁵

Specific comments on the National Principles

1. Coercive control should be clearly defined: National Principle 1 identifies numerous features of coercive control but does not provide a clear definition for legislative purposes. It also suggests that coercive control is a form of domestic abuse, rather than the key underlying element of domestic abuse.
2. The definition of coercive control should include a contextual element, to reduce risk of misidentification of perpetrator: National Principle 1 does identify creating and keeping power and dominance as a common feature of coercive control, but no single definition is provided. National Principle 8 specifically acknowledges the risk of perpetrator misidentification as an unintended consequence of criminalisation. National Principles 3 and 4 also discuss perpetrator misidentification, showing a consistent awareness of this risk. A contextual definition of coercive control, similar to that used in the Family Law Act, would assist in recognising the underlying power imbalance that is central to coercive controlling behaviour.
3. Examples of financially abusive behaviour should be nuanced and inclusive: National Principle 1 describes characteristics of financial abuse on page 13 of the Consultation Draft, however many of these characteristics assume that the perpetrator is the primary income earner and primarily responsible for household finances and accounts. National Principle 1 should also include circumstances where the perpetrator refuses to contribute to household expenses and forces the victim survivor to put household debts (eg utilities accounts, toll accounts, credit cards) in their name, which often results in the victim survivor being left to bear all of the financial consequences.
4. A wider range of relationships should be recognised (not limited to intimate partner relationships): National Principle 1 specifically identifies how coercive control can occur in broader family relationships (including cultural kinship and family of choice relationships).

⁴ Australian Law Reform Commission (2010) Family Violence – A National Legal Response (ALRC Report 114), available at <https://www.alrc.gov.au/publication/family-violence-a-national-legal-response-alrc-report-114/> See recommendations 5, 6 and 7.

⁵ Ibid.

The National Principles should advocate for these broader family relationships to be included in legislative and policy responses to coercive control at the state and federal level.

5. Community expectations about the characteristics of victim survivors should be addressed: While National Principle 3 highlights some harmful assumptions about victim survivors, it should also recognise that stereotypes about the socioeconomic status of victim survivors persist within the community, police and the judiciary. There should be explicit recognition that victim survivors of financial abuse may be high income earners, may be highly educated and financially literate, and may be the primary income earner within their household. However, they may not have access to or oversight of their income, may have their use of money and household resources scrutinised by their partner, or may be stripped of any control over financial decision-making.
6. The impact of financial abuse on a victim survivor's credit report should be recognised: While National Principle 2 acknowledges that the impacts of coercive control may extend beyond the end of the relationship, there should be specific recognition of the impact of financial abuse on a victim survivor's credit score, which may prevent them from being able to access lines of credit in future and rebuild their financial independence.
7. Legislation should distinguish between behaviour during the relationship and post-separation: National Principle 2 acknowledges that coercive control does not always end when a relationship ends, and the risk of abuse increases during and after separation. However, beyond this there is no acknowledgment of a distinction between coercive control during the relationship or post-separation. This recognition is particularly important to ensure harmonisation between laws, such as the Family Law Act and Migration Act, as noted above.
8. State and territory governments should be required to consider the National Principles when introducing *and implementing* a criminal offence of coercive control: National Principle 7 leaves matters relating to criminalisation at the discretion of state and territory governments, but notes that any coercive control offence should involve consideration of the National Principles. This should also apply specifically to the *implementation* of a criminal offence, so there is a clear impetus for the National Principles to continue to be considered and incorporated after any legislation is introduced.