

## **Controlling or coercive behaviour statutory guidance – draft consultation response**

<https://www.gov.uk/government/consultations/controlling-or-coercive-behaviour-statutory-guidance>

*Do you have any comments on Section 1 ('Status and purpose of this guidance') in terms of content or clarity?*

No.

*Do you have any comments on Section 2 ('Criminal justice response') in terms of content or clarity?*

In the coercive and controlling behaviours listed in paragraph 26, we welcome the specific mention of disabled victims as particularly at risk of threats being made to place them in an institution against their will, as well as the inclusion of hindering access to communication as a form of coercive and controlling behaviour.

However, by combining “refusing to interpret” and “hindering access to communication” into one point, it is not clear that “access to communication” refers to more than just language barriers, and could also encompass communication support tools, augmentative and alternative communication (AAC), and/or professionals who support communication, such as speech and language therapists.

We would recommend splitting this into two separate points, one as “Refusing to interpret (including BSL for Deaf victims)”, and another as “Hindering access to communication – for example, by refusing to make information accessible or by denying access to communication support tools, augmentative and alternative communication (AAC), and/or professionals who support communication, such as speech and language therapists, interpreters, intermediaries, or appropriate adults.”

In point seven of paragraph 26 regarding controlling or monitoring the victim’s activities, we would recommend adding “restricting access to health and social care appointments” in the list of examples. We would also recommend the addition of two new points in paragraph 26 in order to better align the list of controlling and coercive behaviours with the list of perpetrator tactics in paragraph 64. To align with the first point under ‘Exploitation’ in paragraph 64, we would recommend the addition of both “Exploiting the communication support needs of the victim in order to discredit their reports and/or impede their access to support services” and “Exploiting the victim’s capacity for the perpetrator’s own gain by either making professionals believe that the victim does not have capacity to report accurately when they do, or that they have the capacity to make decisions and consent when they do not.”

It is critical to acknowledge that even when victims understand that they are being abused, they may not know how to or be able to communicate this. Therefore, we would recommend editing paragraph 32 to read “...and the victim may not be aware of, be ready to acknowledge that, or be able to communicate that they are being subjected to abuse.” To ensure that messages are aligned, paragraph 37 should thus also be edited to read “Victims of controlling or coercive behaviour may not be aware of, be ready to acknowledge that, or be able to communicate that the abuse they have previously or are currently experiencing, is part of a pattern of controlling or coercive behaviour.”

Regarding evidence gathering processes, it is crucial that the communication access and support needs of all parties are met in order to ensure that accounts are accurate and comprehensive. To

ensure the communication access needs of victims are met, we would recommend that paragraph 49 be edited to read “Police officers can help in ensuring that the overall impact is reflected appropriately by asking the right questions early on, ensuring that these questions are asked at a level appropriate for the victim’s communication abilities, and that any communication access and support needs are met.” In paragraph 51, we would recommend elaborating on point eleven to read “Medical records, including health and social care records – for example, of missed appointments” to ensure that evidence is captured where the perpetrator is denying access to care. Furthermore, paragraphs 52 and 53 regarding evidence gathering after an initial report assume that the victim has the capacity and communication ability (written and/or verbal) to collect such evidence themselves without support. We would recommend the addition of a line at the end of paragraph 52, which emphasises that “Police officers should also be mindful that some victims – for example, those with communication disabilities – may not be able to gather such records and evidence, and this should not affect their case.”

Regarding paragraphs 57 and 58 on victim withdrawal from prosecution, it is important to consider the impact that the victim’s speech, language and communication needs may have on the withdrawal process. For example, in order to ensure that a victim is making an informed decision regarding the withdrawal, their communication access and support needs must be met throughout the process. To ensure this, we recommend adding a line in paragraph 57 which reads “Where a complainant has a learning and/or communication disability, their communication access and support needs should be met throughout the withdrawal process; police should make sure that the person understands the full situation and consequences for all decisions made, and are confident they have made an informed decision.”

In the context of perpetrators and their tactics, we would hope to see clearer recognition of the role that unidentified and unsupported speech, language and communication needs may play in the lives of some perpetrators. In paragraph 63, we would recommend adding a line after the list of statistics recognizing the impact of this: “Perpetrators may also have unidentified and unsupported speech, language and communication needs, which may impact their ability in the first instance to access perpetrator programmes, from which this evidence is drawn.”

Finally, within the list of perpetrator tactics, we would recommend two amendments. In paragraph 64, in the third point under ‘Threats and intimidation,’ we welcome the specific mention of learning difficulties and disabilities. However, we would recommend adding communication difficulties to this list. Such difficulties – which may not necessarily be viewed by the victim as a disability, or may not be diagnosed as such – can be used and exploited by perpetrators (as usefully recognized elsewhere in the guidance) in order to convince the victim that they will not be believed or that they do not have the capacity to report what has happened to them. Also in paragraph 64, in the first point under ‘Exploitation,’ we strongly welcome the specific and clear recognition that perpetrators can exploit the communication support needs and capacity of their victims. However, we would recommend clarification in regards to exploitation of capacity to ensure it is clear that perpetrators can exploit either a victim’s capacity or lack thereof. For example, a perpetrator may convince professionals that a victim has the capacity to report when they do not, and as a result, the victim may only repeat to professionals what the perpetrator has told them to say. This clarification could be made by rewording the point as follows: “Exploiting the victim’s communication support needs; manipulating

the victim's knowledge of what support is available; or making professionals believe that the victim has the capacity to make decisions or report accurately when they do not, that the victim does not have capacity to report accurately when they do, or that the victim's reports are not credible due to communication difficulty."

*Do you have any comments on Section 3 ('The defence') in terms of content or clarity?*

No.

*Do you have any comments on Section 4 ('Criminal penalties and protection orders') in terms of content or clarity?*

No.

*Do you have any comments on Section 5 ('Multi-agency response') in terms of content or clarity?*

In the list of IDVAs' support in paragraph 88, we would recommend the addition of "access to intermediaries or registered intermediaries" to the examples of special measures in point five.

*Do you have any comments on Section 6 ('Related harms, offences and other subsets of domestic abuse') in terms of content or clarity?*

In paragraph 109, we welcome the recognition of damage to medical aids or equipment as a form of physical abuse. However, we would recommend the addition of "communication support tools such as augmentative and alternative communication devices (AAC)" to the list of items which could be damaged or made inaccessible by the perpetrator, as being unable to communicate can cause serious harm to the victim, and AAC devices are considered medical aids.

In the examples of verbal abuse in paragraph 116, we would recommend adding "Deliberately using language which is more complex than what they know the victim can understand or process, in order to prevent access to information or relationships." This aligns with the very welcome recognition elsewhere in this guidance of the exploitation of communication support needs as a form of abuse.

In the examples of economic abuse in paragraph 120, we would recommend adding "or limiting access to a prescribed diet" to the list of food-related abuse in point 3. In some cases, eating, drinking and swallowing difficulties are treated with a specific diet (for example, only consuming particular textures of food) recommended by a speech and language therapist. If a victim cannot access food that fits within this diet, it can have a substantial adverse effect on their health, including risks such as choking and developing aspiration pneumonia. We would also recommend adding a new point to the list: "Refusing to purchase accessibility aids". When a perpetrator controls the victim's finances and uses this power to refuse them access to required accessibility aids, they are doubling the impact of their control by exercising power in the first instance, which then limits the victim's ability to function without access to necessary aids.

*Do you have any comments on Section 7 ('Related considerations') in terms of content or clarity?*

In section 7, we welcome the multiple references to disability and, in particular, speech, language and communication needs as particular vulnerabilities in cases of domestic abuse. However, we would recommend a few clarifying edits.

In paragraph 138, we would recommend editing point 7 to be titled as “Language barriers and/or speech, language and communication difficulties.” This would ensure that barriers faced as a result of both limited English fluency and communication difficulties are recognised, given that these barriers, though potentially co-occurring, are different. Additionally, in the final point on mental capacity, we would recommend adding a line at the end regarding how perpetrators may exploit mental capacity (or lack thereof) as well as assessments to determine whether a victim has capacity. It could read as follows: “However, it is important to be aware that perpetrators may manipulate the mental capacity of the victim to their own gain by attempting to make professionals believe that the victim has the capacity to make decisions when they do not, or that the victim does not have capacity to make decisions when they do.”

Under the ‘Disability’ related consideration, we welcome the recognition that disability makes a victim particularly vulnerable to domestic abuse. We would recommend that, in paragraph 159, “communication difficulties” be added to the list of potential impairments that a victim may face, as communication difficulties may not always co-occur with the other categories of impairment listed. We would also recommend that, in paragraph 60, “Preventing access to communication accessible information (such as appointment letters) or services” be added to the list of potential perpetrator conduct. Limiting the victim’s access to information about their care only further exacerbates the power imbalance between them and the perpetrator.

Finally, we strongly welcome the inclusion of ‘Speech, language and communication’ as a related consideration, and are pleased to see recommendations from the consultation on the draft Domestic Abuse Statutory Guidance being taken into consideration. However, we would recommend two clarifying edits to this section. First, in paragraph 164, we would recommend that the line about good practice includes ensuring the accessibility of support services. It could read as follows “Local authorities should ensure that good practice includes the identification of, and appropriate support for, communication needs, as well as the accessibility of support services, including.” Second, we would also recommend that the final point in paragraph 164 reference both learning disability and communication disability, as well as include speech and language therapists and intermediaries in addition to independent interpreters. Speech and language therapists can play a key role in supporting people affected by domestic abuse by identifying communication needs and advising on the appropriate response, training and advising other relevant professionals, and advising on how support services can be made communication accessible.

*Are there any other barriers faced by frontline agencies from recognising controlling or coercive behaviour?*

Not from our perspective.

*What are the most important things that the police and Crown Prosecution Service (CPS) should be aware of, and understand, when it comes to investigating controlling or coercive behaviour?*

The police and CPS must be aware that both victims and perpetrators may have speech, language and communication needs – and these may not be identified or supported at the time when they come into contact with personnel or during any investigations. For victims, this may mean that they do not understand that what is happening to them is controlling or coercive behaviour, due to difficulties understanding the perpetrator’s underlying intentions or processing the language that is

being used towards them by the perpetrator, or that they cannot communicate what is happening to them. As a result, they may not report the abuse or may deny that abuse is occurring when asked until it reaches a physical point, which can be a critical barrier to early identification of controlling or coercive behaviour. For perpetrators, this may mean that they have difficulty processing language used by the police and CPS to make them aware of the offences they have committed, and what they must do or are no longer allowed to do as a result of an offence (for example, the requirements detailed in a DVPN/DVPO). They may also struggle to access perpetrator programmes, which may increase their likelihood of reoffending.

In order to support victims to understand what is happening to them and report it accurately, and to prevent reoffending by perpetrators by ensuring that they know what they can and cannot do following an offence, it is crucial that the police and CPS are trained in recognizing speech, language and communication difficulties. Whilst the implementation of guidance such as "Achieving Best Evidence in Criminal Proceedings" may mean the police are aware of victims and witnesses with communication needs, they may be less aware of the communication needs of perpetrators. Speech and language therapists can offer support in both training personnel to recognize communication difficulties and refer to speech and language therapy when needed, as well as in identifying and supporting speech, language and communication needs in both victims and perpetrators. There are also tools such as ['The Box'](#) which can support professionals working in the justice system to recognize communication difficulties and work with individuals who have these. It is critical that the police and CPS involve speech and language therapists when dealing with both victims and perpetrators in order to ensure that investigations into controlling and coercive behaviour are complete, and that all involved parties are supported to communicate what has occurred and its impact. Additionally, it is vital that both support services for victims and perpetrator programmes are communication accessible in order to ensure that victims are adequately supported and protected and that perpetrators have the opportunity to break cycles of disengagement and reoffending.

*Do you have any comments on if the guidance is clear in showing how economic abuse can be a form of controlling or coercive behaviour?*

No.

*Do you think the case studies used are helpful in supporting the aims of this guidance? If there are any case studies which you did not find helpful, please provide additional comments, ensuring you refer to the case study to which your comment relates.*

Yes – no additional comments regarding the case studies.

*Do you feel there are any overarching ways the guidance could be improved? Please provide comments.*

No.

*Do you feel there are any significant gaps in the guidance that should be addressed?*

No.

*Do you have any comments on whether the guidance is clear and easy to understand? If so, please provide further feedback on structure, accessibility and clarity.*

We are pleased to see that this draft guidance is available in EasyRead format as well, in order to make it accessible to people with certain speech, language and communication difficulties. We hope

that the final guidance is also available in this format to ensure that people with communication difficulties who may be experiencing, witnessing, or perpetrating controlling or coercive behaviour are able to access this information.