

## Coercive Control - Section 76 The Serious Crime Act 2015

### Summary

A person repeatedly or continuously engages in behaviour towards another that is controlling or coercive. At the time of the behaviour, both parties are *personally connected*, the behaviour has a serious effect on the other and it is known or ought to be known the behaviour will have a *serious effect*.

**'Personally connected'** - When incidents took place, in an intimate personal relationship (lived together or not) or family members (lived together) or previously in an intimate personal relationship (lived together).

**'Serious effect'** - Fear that violence will be used against them on at least two occasions, or have been caused serious alarm or distress which has a substantial adverse effect on day-to-day activities.

### Types of behaviour;

Isolating, Depriving, Monitoring, Controlling, Demeaning, Threatening, Assaulting, Raping, Preventing.

### Types of evidence

Copies of emails, Phone Records, Text Messages, Social Media Records, Photographs, 999 Transcripts, CCTV, Body Worn Footage, Interaction with Support Services, Medical Records, Witness Testimony, Local Enquiries, Bank Records, Diaries, Evidence of Isolation.

Section 8 of PACE 1984 applies, allowing for search warrant applications for evidence such as bank statements etc.

### Victim's Experiences

"He used to hide either 5,6 or 7 marked pound coins around the house - only he knew how many - and if I hadn't got the right amount in my hand when he came home then he knew I had not done enough through cleaning and I would suffer."

"He would also check the mileage to make sure I had just been to the school and back so I was pretty much in a kind of prison really..."

"He used to make me parade around the house in front of the children naked and show them the injuries he had caused. I was embarrassed and humiliated and my son was too."

### Does not apply

If victim and perpetrator not personally connected at time of behaviour (consider stalking/harassment as alternative).

Does apply to anyone over 10, but **NOT** if perpetrated against Under 16 by someone aged 16 or over with parental responsibility for the victim.

## Practical Advice

### **Charging Benefits**

Consultation with CPS has confirmed that the new offence of coercive control will be considered and charged alongside other substantive offences as well as in isolation.

Charging with coercive control alongside other offences such as criminal damage or S39 common assault has numerous benefits including:

- All previously excluded evidence of coercive control can be adduced in evidence alongside that of what appear to be other isolated offences and can paint a damaging picture;
- Coercive control can be used in remand in custody applications as evidence of future witness intimidation, interference with witnesses etc;
- Conviction of coercive control alongside other offences can increase the sentencing powers of other offences ie: S39 common assault, minor criminal damage.

### **Victimless Prosecutions**

Victimless prosecutions can also be considered in relation to the causing of serious alarm or distress which has a substantial adverse effect on the victim's usual day to day activities as this is not wholly reliant on victim testimony; it can be proven by other witness testimony ie: friends, family, absenteeism from work/college etc.

### **Limitations**

The offence of controlling or coercive behaviour **does not have a retrospective effect**. This means that charges cannot be brought in relation to behaviour(s) that occurred before 29<sup>th</sup> December 2015. However, behaviour that occurred before the implementation may still be adduced as evidence of bad character and any evidence relating to it should be passed to CPS.

### **Key Evidence**

CPS consider that witness testimony and evidence from family, friends, partner agencies etc is going to be crucial evidence in proving elements of this offence. Ask the question "what was X like before the relationship and how have they changed?"