



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: CLC:JWrg2058179

5 March 2021

The Hon Natalie Ward, MLC
Chair
Joint Select Committee on Coercive Control
Parliament House
Macquarie Street
Sydney NSW 2000

By email: coercivecontrol@parliament.nsw.gov.au

Dear Ms Ward,

Inquiry into coercive control in domestic relationships – question taken on notice

On 22 February 2021, Ms Ketley appeared on behalf of the Law Society and gave evidence before the Joint Select Committee on Coercive Control, as part of its inquiry into coercive control in domestic relationships.

A question was taken on notice, which we have responded to below.

The Hon. ROD ROBERTS: Both of you may want to take this question on notice because it is from left field but I think you will see where I am coming from. This is something that is forgotten in this debate. What about section 545B of the Crimes Act? As I say, this is not a gotcha moment and I do not expect you to quote the Crimes Act to me, but it is a section to do with intimidation. Can we look at enhancing or tweaking that existing legislation that talks about "intimidation or annoyance by violence or otherwise" of partners? And the definition of "partner" is quite broad. Perhaps you might want to take it on notice or you might want to have a go at it now. Either way, do either of you have thoughts on that?

As noted in our submission to the Inquiry, the Law Society's position is that a new offence may be the best way to address any gap in the law in relation to coercive controlling behaviour. As coercive control can cover a wide variety of conduct and motivations, a legislative response will necessarily need to be finely tuned; any new offence will be difficult to draft. A broad brush offence would risk criminalising dynamics and behaviour within couples and families that does not warrant criminal sanction.

We are of the view that drafting a new provision is a better approach than attempting to amend s545B of the *Crimes Act 1900*, given the nuanced approach required, and the complexities of the new offence. Pages 4-5 of our written submission detail what we consider to be the essential elements of any new offence. A standalone offence sends a clear message to the community that coercive and controlling behaviour is unacceptable.

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CONSTITUENT BODY

The Law Society contact for this matter is Rachel Geare, Senior Policy Lawyer, who can be reached on (02) 9926 0310 or at rachel.geare@lawsociety.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'JW', followed by a horizontal line extending to the right.

Juliana Warner
President