**Submission to the Joint Select Committee on Coercive Control**

# **Background and context of our submission**

The NSW Ageing and Disability Commission (ADC) commenced on 1 July 2019. The ADC is an independent statutory body, which is focused on protecting adults with disability and older adults from abuse, neglect and exploitation, and protecting and promoting their rights. Our roles include:

* responding to allegations of abuse, neglect and exploitation of adults with disability (18 years and over) and older adults (65 years and over or, if Aboriginal and/or Torres Strait Islander, 50 years and over), including by providing advice, making referrals and conducting investigations
* following an investigation, taking further action that is necessary to protect the adult from abuse, neglect and exploitation
* raising awareness and educating the public about matters relating to the abuse, neglect and exploitation of adults with disability and older adults
* inquiring into and reporting on systemic issues relating to the protection and promotion of the rights, or the abuse, neglect and exploitation, of adults with disability and older adults
* overseeing and coordinating the Official Community Visitor (OCV) scheme
* meeting other obligations as outlined in the *Ageing and Disability Commissioner Act 2019* (the ADC Act).

The ADC includes the Ageing and Disability Abuse Helpline.

The majority of the reports handled by the ADC about abuse, neglect and exploitation of adults with disability and older people focus on allegations about family members, spouses/partners, informal carers, and members of the community. Given the roles and functions of the ADC, our submission is focused on two main areas: the experience of adults with disability and older people who are subject to coercive and controlling behaviours; and coercive control in family and ‘carer’ relationships.

# **Key points**

* Against the background of our handling of numerous reports about adults with disability and older people who are subject to coercive and controlling behaviours, the ADC supports the introduction of a coercive control offence in NSW. The impact of coercive control is particularly devastating for some adults with disability and older people in light of their heavy reliance on support and the considerable barriers to them being able to take steps to change the situation.
* It is critical that the scope of the offence is not limited to spouses and partners, but also encompasses domestic relationships that include family/relatives and people who ‘have or had a relationship involving one person’s dependence on the ongoing paid or unpaid care of the person’.[[1]](#footnote-1)
* The construction of a coercive control offence needs to take into account specific factors that unfairly and adversely affect the identification of, and response to, coercive control (and broader domestic and family violence) of adults with disability and older people. Among other things, it needs to ensure that the threshold for criminal conduct is not set so high that it unfairly disadvantages vulnerable people (such as those with cognitive impairment); and that the existence of an adult’s disability or care needs is not considered to be an appropriate defence for the use of coercive control.
* Apprehended domestic violence orders are not always an effective protection for the adults with disability and older people in reports to the ADC for a number of reasons. Among other things, they do not always include sufficient conditions to protect the adult; and, because the perpetrator is usually a close family member, the adults themselves tend to be very reluctant to take this action or report breaches, notwithstanding significant harm.
* It is important that the existing witness intermediary scheme is extended to include vulnerable adults (such as those with cognitive impairment). Access to witness intermediaries will be vital for vulnerable adult victims to participate in investigations and proceedings in relation to a coercive control offence; however, in our experience, this is critical support that should be available more broadly to assist them to gain effective access to justice.
* The introduction of a coercive control offence, in and of itself, will not be sufficient to deliver the necessary reforms. It will be important to ensure that it is supported by a public awareness campaign (including targeted promotion in relation to people with disability and older people); education and training of police, support providers, and frontline workers; and development of resources and guidance. The ADC can provide assistance to ensure there is targeted communication and training in relation to people with disability and older people, including with Aged Crime Prevention Officers, and disability, ageing and other relevant sectors.

# **Snapshot of the people who are the focus of reports to the ADC**

Between 1 January and 31 December 2020, the ADC received 2,965 reports about adults with disability and older people who were subject to, or at risk of, abuse, neglect and exploitation. Of the 2,965 reports:

* 2,294 reports (77%) related to older people (including 713 reports about older people with disability)
* 671 reports (23%) related to adults with disability (who are not older people).

## **3.1 Gender**

Most of the reports to the ADC are about the abuse, neglect and exploitation of women. In 2020, over half (57.5%) of the adults with disability and two-thirds (67%) of the older people who were the subject of reports to the ADC were female.

**Table 1: Gender of adults with disability in reports to the ADC, 1 January – 31 December 2020**

|  |  |  |
| --- | --- | --- |
| **Gender** | **Number** | **Percentage** |
| Unknown | 1 | 0.2 |
| Other | 2 | 0.3 |
| Male | 282 | 42.0 |
| Female | 386 | 57.5 |
| **Total** | **671** | **100.0** |

**Table 2: Gender of older people in reports to the ADC, 1 January – 31 December 2020**

|  |  |  |
| --- | --- | --- |
| **Gender** | **Number** | **Percentage** |
| Unknown | 6 | 0.3 |
| Male | 750 | 32.7 |
| Female | 1538 | 67.0 |
| **Total** | **2294** | **100.0** |

## **3.2 Age**

The largest proportion (18%) of reports to the ADC in 2020 about adults with disability related to people aged 18-24 years. In relation to older people, the largest proportion (17.3%) of reports related to people aged 80-84 years.

**Table 3: Age of adults with disability in reports to the ADC, 1 January – 31 December 2020**

|  |  |  |
| --- | --- | --- |
| **Age range** | **Number** | **Percentage** |
| 18-24 | 121 | 18.0 |
| 25-29 | 58 | 8.6 |
| 30-34 | 43 | 6.4 |
| 35-39 | 33 | 4.9 |
| 40-44 | 41 | 6.1 |
| 45-49 | 60 | 8.9 |
| 50-54 | 52 | 7.7 |
| 55-59 | 82 | 12.2 |
| 60-64 | 82 | 12.2 |
| Not known | 99 | 14.8 |
| **Total** | **671** | **100.0** |

**Table 4: Age of older people in reports to the ADC, 1 January – 31 December 2020**

|  |  |  |
| --- | --- | --- |
| **Age range** | **Number** | **Percentage** |
| 50-54 | 2 | 0.1 |
| 55-59 | 5 | 0.2 |
| 60-64 | 14 | 0.6 |
| 65-69 | 184 | 8.0 |
| 70-74 | 239 | 10.4 |
| 75-79 | 341 | 14.9 |
| 80-84 | 398 | 17.3 |
| 85-89 | 365 | 15.9 |
| 90-94 | 273 | 11.9 |
| 95-99 | 96 | 4.2 |
| 100+ | 14 | 0.6 |
| Not known | 363 | 15.8 |
| **Total** | **2294** | **100.0** |

## **3.3 Reporter relationship**

Paid workers are the main source of reports to the ADC about adults with disability; primarily staff of disability support services. Paid workers were the reporters in almost two-thirds (63%) of all reports received by the ADC about adults with disability in 2020.

Family members (mainly adult children) are the main source of reports to the ADC about older people, accounting for over one-third (42.6%) of all reports received by the ADC about older people in 2020.

**Table 5: Relationship of reporters to adults with disability in reports to the ADC, 1 January – 31 December 2020**

|  |  |  |
| --- | --- | --- |
| **Reporter relationship** | **Number** | **Percentage** |
| Primary carer | 1 | 0.1 |
| Spouse/partner | 1 | 0.1 |
| Advocate | 3 | 0.4 |
| Neighbour | 10 | 1.5 |
| Friend | 13 | 1.9 |
| Child | 14 | 2.1 |
| Unknown or not disclosed | 15 | 2.2 |
| Other | 25 | 3.7 |
| Other relative | 28 | 4.2 |
| Sibling | 31 | 4.6 |
| Parent | 32 | 4.8 |
| Person experiencing abuse | 75 | 11.2 |
| Paid worker | 423 | 63.0 |
| **Total** | **671** | **100** |

**Table 6: Relationship of reporters to older people in reports to the ADC, 1 January – 31 December 2020**

|  |  |  |
| --- | --- | --- |
| **Reporter relationship** | **Number** | **Percentage** |
| Parent | 2 | 0.1 |
| Advocate | 4 | 0.2 |
| Unknown or not disclosed | 20 | 0.9 |
| Spouse/partner | 28 | 1.2 |
| Other | 40 | 1.7 |
| Sibling | 43 | 1.9 |
| Grandchild | 94 | 4.1 |
| Neighbour | 106 | 4.6 |
| Friend | 134 | 5.8 |
| Other relative | 136 | 5.9 |
| Person experiencing abuse | 337 | 14.7 |
| Paid worker | 647 | 28.2 |
| Child | 703 | 30.6 |
| **Total** | **2294** | **100** |

## **3.4 Subjects of allegation**

In over two-thirds (28%) of reports to the ADC about adults with disability in 2020, the allegations pertained to the adult’s parent(s). All up, family members were the subjects of allegation in

51% of reports about adults with disability in that period. In 11.5% of matters, the adult’s spouse or partner was the subject of the allegations.

Over half (54.7%) of all reports to the ADC about older people in 2020 pertained to the person’s adult children. All up, family members were the subjects of allegations in almost two-thirds (64%) of the reports about older people in that period. Allegations against a spouse or partner featured in 12.1% of the reports about older people.

**Table 7: Relationship of subjects of allegation to adults with disability in reports to the ADC, 1 January – 31 December 2020**

|  |  |  |
| --- | --- | --- |
| **Relationship of the subjects of allegation** | **Number** | **Percentage** |
| Former paid staff | 4 | 0.6 |
| Ex-foster carer | 4 | 0.6 |
| Grandparent | 4 | 0.6 |
| Other community member | 16 | 2.4 |
| Unknown/not disclosed | 17 | 2.5 |
| Neighbour | 19 | 2.8 |
| Other relative | 33 | 4.9 |
| Friend | 43 | 6.4 |
| Child | 47 | 7.0 |
| Other | 65 | 9.7 |
| Sibling | 70 | 10.4 |
| Spouse/partner | 77 | 11.5 |
| Paid staff | 84 | 12.5 |
| Parent | 188 | 28.0 |
| **Total** | **671** | **100** |

**Table 8: Relationship of subjects of allegation to older people in reports to the ADC, 1 January – 31 December 2020**

|  |  |  |
| --- | --- | --- |
| **Relationship of the subjects of allegation** | **Number** | **Percentage** |
| Parent | 3 | 0.1 |
| Former paid staff | 10 | 0.4 |
| Unknown/not disclosed | 35 | 1.5 |
| Other community member | 50 | 2.2 |
| Sibling | 66 | 2.9 |
| Grandchild | 75 | 3.3 |
| Other relative | 80 | 3.5 |
| Neighbour | 87 | 3.8 |
| Other | 87 | 3.8 |
| Friend | 109 | 4.8 |
| Paid staff | 159 | 6.9 |
| Spouse/partner | 278 | 12.1 |
| Child | 1255 | 54.7 |
| **Total** | **2294** | **100** |

## **3.5 Type of alleged abuse**

Most reports to the ADC involve more than one type of abuse. It is common, for example, for financial and psychological abuse to be reported together, noting that psychological abuse can be applied to gain access to a person’s finances.

The most commonly reported types of alleged abuse in relation to adults with disability in 2020 were psychological abuse and neglect. In relation to older people, the most commonly reported types of alleged abuse were psychological abuse and financial abuse.

**Table 9: Type of alleged abuse against adults with disability in reports to the ADC, 1 January – 31 December 2020[[2]](#footnote-2)**

|  |  |  |
| --- | --- | --- |
| **Type of alleged abuse** | **Number of allegations** | **Percentage of all allegations involving adults with disability** |
| **Psychological abuse**  (Mainly verbal abuse; preventing or restricting access to supports/ services; and preventing or restricting access to family/ others; and making excessive or degrading demands) | 333 | 28.7 |
| **Neglect**  (Mainly failure to meet the person’s support needs; medical neglect; and failure to provide adequate clothing and/or food) | 291 | 25.0 |
| **Financial abuse**  (Mainly financial exploitation; preventing access to/withholding the person’s money; and theft) | 215 | 18.5 |
| **Physical abuse**  (Mainly hitting/kicking/punching; and inappropriate restraint/use of force) | 215 | 18.5 |
| **Sexual abuse**  (Mainly sexual assault; and indecent assault) | 71 | 6.1 |
| **Other** | 37 | 3.2 |
| **Total** | **1162** | **100** |

**Table 10: Type of alleged abuse against older people in reports to the ADC, 1 January – 31 December 2020[[3]](#footnote-3)**

|  |  |  |
| --- | --- | --- |
| **Type of alleged abuse** | **Number** | **Percentage of all allegations involving older people** |
| **Psychological abuse**  (Mainly verbal abuse; and preventing or restricting access to family/others) | 1411 | 38.4 |
| **Financial abuse**  (Mainly financial exploitation; theft; and misuse of Power of Attorney/ Enduring POA) | 1036 | 28.2 |
| **Neglect**  (Mainly failure to meet the person’s support needs; medical neglect; and failure to provide adequate clothing and/or food) | 756 | 20.5 |
| **Physical abuse**  (Mainly hitting/kicking/punching; and pushing/shoving/grabbing/shaking) | 364 | 9.9 |
| **Other** | 80 | 2.2 |
| **Sexual abuse**  (Mainly sexual assault) | 32 | 0.9 |
| **Total** | **3679** | **100** |

# **Coercive control in relation to adults with disability and older people**

Coercive control has been a significant feature of reports to the ADC about adults with disability and older people. In addition to physical and/or sexual assault, the allegations have concerned family members, spouses/ partners, or ‘carers’:

* + verbally abusing the adult, including belittling or degrading comments and other verbal abuse intended to humiliate and intimidate the adult and erode their self-esteem and confidence in their cognitive capacity
  + preventing or restricting the adult’s access to family and friends
  + threatening to prevent the adult from seeing their grandchildren
  + threatening to place the adult into residential care
  + preventing or restricting the adult’s access to the community
  + preventing or restricting access to necessary services and supports (including disability or aged care supports)
  + preventing or restricting access to necessary aids and equipment
  + preventing the adult from leaving the house – including removing car keys and locking gates
  + tracking the adult’s movements, including using CCTV, car and phone trackers
  + never allowing the adult to be away from them
  + controlling the adult’s access to money (including taking their bank card)
  + threatening to harm or remove pets.

Coercive and controlling behaviours feature in reports about both adults with disability and older people; however, there are some differences in the main types of behaviours used. For example, preventing or restricting the adult from access to/contact with their family or others has featured more often in reports about older people. For adults with disability, it has been more common for coercive control to include the perpetrator preventing or restricting the adult’s access to necessary supports and services, such as disability supports. Tables 11 and 12 provide an overview of the main coercive control-related allegations reported to the ADC in 2020 in relation to adults with disability and older people respectively.

**Table 11: Coercive control-related allegations involving adults with disability in reports to the ADC, 1 January – 31 December 2020**

|  |  |  |
| --- | --- | --- |
| **Alleged abuse** | **Number of allegations** | **Percentage of all allegations involving adults with disability[[4]](#footnote-4)** |
| Verbal abuse | 115 | 9.9 |
| Hitting/ kicking/ punching | 80 | 6.9 |
| Preventing or restricting the Person’s access to services/ supports | 67 | 5.8 |
| Other psychological abuse | 54 | 4.6 |
| Preventing access to, or withholding, the Person’s money | 45 | 3.9 |
| Preventing or restricting the Person’s access to family or others | 43 | 3.7 |
| Other physical abuse | 39 | 3.4 |
| Making excessive or degrading demands | 33 | 2.8 |
| Sexual assault (involving sexual intercourse) | 33 | 2.8 |
| Inappropriate restraint | 29 | 2.5 |
| Pushing/ shoving/ grabbing/ shaking | 23 | 1.9 |
| Other sexual offences | 22 | 1.9 |
| Perceived threat of harm | 20 | 1.7 |
| Use of object or weapon | 11 | 0.9 |
| Preventing or restricting the Person’s access to the community | 11 | 0.9 |
| Preventing or restricting the Person’s access to aids/ equipment | 8 | 0.7 |

**Table 12: Coercive control-related allegations involving older people in reports to the ADC, 1 Jan – 31 Dec 2020**

|  |  |  |
| --- | --- | --- |
| **Alleged abuse** | **Number of allegations** | **Percentage of all allegations involving older people[[5]](#footnote-5)** |
| Verbal abuse | 625 | 16.9 |
| Preventing or restricting the Person’s access to family or others | 303 | 8.2 |
| Other psychological abuse | 201 | 5.5 |
| Preventing or restricting the Person’s access to services/ supports | 132 | 3.6 |
| Hitting/ kicking/ punching | 118 | 3.2 |
| Making excessive or degrading demands | 104 | 2.8 |
| Preventing access to, or withholding, the Person’s money | 87 | 2.4 |
| Pushing/ shoving/ grabbing/ shaking | 70 | 1.9 |
| Perceived threat of harm | 48 | 1.3 |
| Inappropriate restraint | 31 | 0.8 |
| Preventing or restricting the Person’s access to the community | 31 | 0.8 |
| Other physical abuse | 28 | 0.8 |
| Use of object or weapon | 23 | 0.6 |
| Other sexual offences | 20 | 0.5 |
| Sexual assault (involving sexual intercourse) | 12 | 0.3 |
| Preventing or restricting the Person’s access to aids/ equipment | 10 | 0.3 |

Consistent with information on coercive control more broadly in the community, the actions by perpetrators in the matters reported to the ADC have been intended to erode the adult’s self-esteem and autonomy, isolate them, and increase their dependence on the perpetrator. However, it is important to recognise the additional and magnified risks for many of the adults with disability and older people involved in these matters, noting their significant pre-existing reliance on support, and extremely limited capacity to independently change the situation. For example, the effects of the coercive and controlling behaviours used in relation to adults with disability and older people in matters reported to the ADC have included that:

* the adult’s dependence on the perpetrator has increased to the extent that they are forced to rely solely on them for the necessities of life
* the adult has not been able to safely communicate with any other party to raise concerns or seek help as the perpetrator is always present (and at times has prevented the adult from accessing aids they need to communicate)
* no-one has been able to gain access to the adult to ascertain their health and circumstances
* the adult has been prevented from accessing health supports and has been denied necessary pain medication
* they have had no money, and no way of accessing money or obtaining goods.

In addition, where these concerns are identified, the existence of a disability and/or perceived frailty adversely affects the response that is provided to the adult with disability or older person. In particular, perceptions about the difficulties or ‘burden’ of providing care tend to cloud the ability of external parties to recognise coercive control as distinct from ‘care’. Examples from matters reported to the ADC have included:

* coercive and controlling behaviours being seen as reasonable or appropriate to keep the adult safe and reduce risks
* verbal and physical abuse of the adult being framed as ‘lawful chastisement’
* views that the behaviour of the perpetrator is reasonable given their ‘carer burden’.

In a range of matters, we noted that the COVID-19 pandemic provided a ‘legitimate’ mechanism for the perpetrator to control the adult’s access to the community, services and external family and supporters, on the basis of preventing infection and minimising risks to the adult. However, our examination of many of these cases has identified that the controlling behaviour and restrictions existed prior to the pandemic, and continued beyond the relaxing of restrictions in NSW.

# **The benefits of criminalising coercive control in relation to adults with disability and older people**

We agree with the potential benefits of a specific coercive control offence that are outlined in the discussion paper. The introduction of a specific offence would strongly communicate that controlling and coercive behaviours are criminal conduct, and enable prosecution of relevant matters. In our view, the value of the message such an offence would send to the community, and the likely outcomes, cannot be underestimated. In relation to adults with disability and older people, it would (among other things):

* help to challenge and eradicate views about coercive and controlling behaviours being acceptable and a reasonable part of providing care to adults with disability or older people
* improve the identification of coercive conduct at an early point by family members, service providers and other parties who can take initial actions, including reporting concerns
* enable the adult themselves to identify and report concerns, where possible, and obtain help.

We recognise that just introducing a new offence will not be sufficient to achieve the above. It will be important to ensure that it is supported by a public awareness campaign (including targeted promotion in relation to people with disability and older people); education and training of police, support providers, and frontline workers; and development of resources and guidance. The ADC can provide assistance to ensure there is targeted communication and training in relation to people with disability and older people, including with Aged Crime Prevention Officers, and disability, ageing and other relevant sectors.

# **Apprehended domestic violence orders**

Apprehended domestic violence orders (ADVOs) have been a useful protection for some of the adults with disability and older people involved in reports to the ADC. In reports closed in 2020, 42 ADVOs were taken out to protect the adult from the perpetrator. However, in a range of cases, ADVOs have not been an effective mechanism, primarily because:

* Where they have been taken out, they have tended to only have the standard conditions. These ADVOs do not always provide the level of protection that is needed, particularly the need to prevent the perpetrator from living with the adult in need of protection.
* The adults involved in our cases tend to be extremely reluctant to take this action against their family member (such as their adult child), or to report breaches of the order, despite the significant harm or risk to them.

We agree that there needs to be improvements in relation to the use of ADVOs. However, this will not address all of the issues for the relevant cases handled by the ADC. Among other things, the conduct still needs to meet the threshold of an *offence* in the first place. As noted earlier, there are currently significant challenges faced by adults with disability and older people in having the coercive and controlling behaviours of perpetrators recognised as such, due to assumptions that these behaviours are part of the provision of ‘care’.

More broadly, violence and abuse of adults with disability and older people has not been consistently or adequately identified as domestic and family violence – partly due to the factors above. As a result, we have typically not seen the inclusion of relevant adults with disability or older people in Safer Pathway, including safety action meetings. We note that there have been improvements following the introduction of NSW Police Aged Crime Prevention Officers, and look forward to their progressive rollout to all Police Commands.

# **Constructing an offence of coercive control**

## **7.1 Scope of domestic relationships to be covered**

Against the background of the reports to the ADC about adults with disability and older people who are subject to coercive control, it is imperative that the scope of the domestic relationships covered under a coercive control offence is not limited to an intimate partner/ spouse relationship. In addition to the adult’s spouse or partner, the alleged perpetrators in the coercive control matters handled by the ADC have primarily been family members. In a smaller proportion of cases, the alleged perpetrator of coercive control of the adult has been an unrelated ‘carer’ – such as someone who has befriended the adult with disability or older person and moved into their home.

In our view, at a minimum, the domestic relationships to be covered by a coercive control offence should include: partner/spouse relationships, familial relationships, and ‘carer’ relationships (such as covered under the definition of ‘domestic relationship’ under s5(1) of the *Crimes (Domestic and Personal Violence) Act 2007*).

## **7.2 Impact on the victim**

We support the offence being constructed to not require evidence of harm to the victim, but rather to adopt an objective ‘reasonable person’ standard, consistent with the Scottish legislation. We note that not all of the adults with disability or older people involved in the coercive control matters handled by the ADC would be able to give evidence about the significant impact on them of the perpetrator’s conduct (due to their level of cognitive impairment), but these matters would be likely to pass a ‘reasonable person’ test.

## **7.3 State of mind of the offender**

Rather than requiring actual intention or recklessness on the part of the alleged perpetrator to cause a specific harm or to control the victim, we support the approach of requiring that the perpetrator knew or ought to have known that their behaviour would have been abusive. The fact that a range of the reports to the ADC about coercive control of adults with disability or older people include a ‘care’ relationship would make it harder to prove intent to cause harm. While we appreciate that there may be an argument that this would set the threshold for criminal conduct too low, the alternatives (for both impact on the victim and state of mind of the offender) would unfairly disadvantage vulnerable people.

## **7.4 Defences**

We note from the discussion paper that it is a defence in the Scottish legislation ‘to show that the course of behaviour was reasonable in the particular circumstances’.[[6]](#footnote-6) Similarly, it is a defence in the legislation in England and Wales ‘if an accused believes that they are acting in the best interests of the other party, and the behaviour is in all the circumstances reasonable’.[[7]](#footnote-7) In both cases, the accused only needs to adduce evidence sufficient to raise the defence; the prosecution bears the onus of proving beyond a reasonable doubt the defence does not apply.

As noted previously, perceptions of disability and frailty and the ‘carer burden’ impede the appropriate recognition of domestic and family violence (including coercive control) of adults with disability and older people. Currently, arguments by the perpetrator (family member, spouse/partner, or ‘carer’ of the adult) that the coercive and controlling behaviour, or other form of domestic and family violence, is necessary to protect the adult – and/or the perpetrator or another party – because of the adult’s disability and/or support needs, are too readily accepted. We would have concerns about the introduction of legislation that would enable the alleged perpetrator to successfully use the adult’s disability as the basis of their defence. It is also worth noting that the notion of ‘best interests’ is no longer commonly used in the disability and related sectors, particularly in light of the United Nations Convention on the Rights of Persons with Disabilities; ‘rights, will and preferences’ has tended to replace ‘best interests’.

# **Additional actions needed**

## **8.1 Assistance for adults with cognitive impairment to give best evidence**

There are substantial barriers for people with disability – particularly people with cognitive impairment and/or communication difficulties – engaging with the criminal justice system on an equal basis with others, including giving evidence to police and at court. Witness intermediaries are currently available in NSW for child victims of sexual offences, but should also be made available to assist adults with cognitive disability and/or communication difficulties to make it as easy as possible for them to give ‘best evidence’.

Witness intermediaries assess the communication needs of the victim/witness, and inform police and the court about the best ways to communicate with the person so they can provide best evidence. Access to witness intermediaries will be important for vulnerable adult victims to participate in investigations and proceedings in relation to a coercive control offence; however, in our experience, this is critical support that should be available more broadly to assist them to gain effective access to justice.

## **8.2 Specialist education, training and guidance for key staff**

We agree with the need to develop tailored training and resources for recognising and responding to coercive control, particularly for police and frontline services. In light of the reports to the ADC involving coercive control of adults with disability and older people, it will be important to ensure that there is specific training for aged care and disability services staff. In this regard, we note that in a range of the matters handled by the ADC, the adult had been subject to the coercive and controlling behaviours for years. In some cases, the behaviours (and the adult) had been largely hidden prior to the report to the ADC. However, in other cases, providers had noted concerns about the conduct but had not taken other action.

Direct care staff (disability, aged care, health) are often in the best position to identify and initially respond to concerns about the use of coercive and controlling behaviour in relation to adults with disability and older people, including being able to identify a pattern of abuse – more than an isolated incident or one-off behaviour. Among other things, they are seeing and hearing what is happening for individuals behind closed doors; tend to be in a position of trust with the adult to elicit disclosures; and are able to have early conversations and flag the need for support or other actions.

We have seen examples of excellent work by disability and aged care providers and staff in identifying and quickly responding to concerns about coercive and controlling behaviours, and the broader abuse, neglect and exploitation of their clients. However, there is also a need for improvements across the disability and aged care sectors to improve:

* the overall understanding of providers and staff about abuse, neglect and exploitation by family members and others – including coercive and controlling behaviours – and what to do in these matters
* actions to seek, understand and uphold the will and preference of the adult with disability or older person, and
* record-keeping in relation to these matters.

The ADC has released an online training module for frontline staff, volunteers and others going into the homes of adults with disability and older people, focused on identifying and providing the initial response to abuse, neglect and exploitation. Some of the information and examples include coercive and controlling behaviours. In the first quarter of 2021, we will release a second online training module, targeted at management and improving the organisation-wide approach to preventing, identifying and responding to the abuse, neglect and exploitation of adults with disability and older people in their family, home and community.

The ADC can provide assistance and support with the development of tailored training and resources for the ageing and disability sectors to improve awareness and applied understanding of issues relevant to a coercive control offence.

## **8.3 Community education and awareness-raising**

It will be important to have a multi-component approach to community engagement and education activities to raise awareness and understanding of coercive control, with a focus on prevention, identification and how to respond/ get help. In relation to our focus populations, we consider that this should include (among other things):

* reworking existing training and resources on abuse, neglect and exploitation to ensure that they include an appropriate focus on coercive control and particular signs and factors to consider in relation to adults with disability and older people
* leveraging off existing education and training activities to include information about coercive control – for example, ensuring that in-school programs on financial literacy include information about coercive and controlling behaviours
* specific resources and messaging for ‘first responders’ – community members and professionals who tend to have an opportunity to speak with the person alone – such as general practitioners and hairdressers
* ensuring that adults with disability and older people are visually represented in media campaigns and resources
* ensuring that the messaging includes highlighting the difference between providing support/ care and exercising coercive control
* targeted and accessible training and materials for adults with disability and older people to enable them to understand coercive control, what they can do, and the help available.

1. Section 5(1)(f), *Crimes (Domestic and Personal Violence) Act 2007*. [↑](#footnote-ref-1)
2. The data captures all matters in which that type of abuse has been reported; in the majority of matters, more than one type of abuse is reported. [↑](#footnote-ref-2)
3. The data captures all matters in which that type of abuse has been reported; in the majority of matters, more than one type of abuse is reported. [↑](#footnote-ref-3)
4. The total number of allegations involving adults with disability in 1 January – 31 December 2020 was 1,162. [↑](#footnote-ref-4)
5. The total number of allegations involving adults with disability in 1 January – 31 December 2020 was 3,679. [↑](#footnote-ref-5)
6. Coercive control discussion paper, p15. [↑](#footnote-ref-6)
7. Ibid., p16 [↑](#footnote-ref-7)