

Crown Prosecution Service

Controlling or Coercive Behaviour



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Today's Presentation

- Role of the CPS
- The law relating to Controlling or Coercive Behaviour
- Performance update
- Case Studies
- Special Measures
- Communications with Victims and the Victims' Right to Review scheme
- Any Questions?

Role of the Crown Prosecution Service

PUBLIC CONFIDENCE

The Crown Prosecution Service (CPS) is the principal prosecuting authority for England and Wales.

The CPS:

- decides which cases should be prosecuted – keeping them all under continuous review;
- determines the appropriate charges in more serious or complex cases – advising the police during the early stages of investigations;
- prepares cases and presents them at court; and
- provides information, assistance and support to victims and prosecution witnesses.



Deciding whether to bring a prosecution

PUBLIC CONFIDENCE

- The Code for Crown Prosecutors
- The Full Code Test
 - The Evidential Stage - prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge.
 - The Public Interest Stage - in every case where there is sufficient evidence to justify a prosecution, prosecutors must go on to consider whether a prosecution is required in the public interest.



Controlling or Coercive Behaviour – The Background

PUBLIC CONFIDENCE

- Prior to December 2015, it was difficult to prove a pattern of behaviour amounting to harassment in an intimate relationship
- In 2012, the Government published guidance to assist prosecutors to better understand the nature and features of controlling or coercive behaviour:
 - Coercive behaviour is an act or a pattern of acts of assault, threats, humiliation, and intimidation or other abuse that is used to harm, punish, or frighten their victim



Controlling or Coercive Behaviour – The Background

PUBLIC CONFIDENCE

- Controlling behaviour is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour
- Section 76 of the Serious Crime Act 2015 created the offence of controlling or coercive behaviour in an intimate or family relationship
 - Came in to force from 29 December 2015
 - Can not be applied retrospectively



Section 76 of the Serious Crime Act 2015

PUBLIC CONFIDENCE

An offence is committed under this section by “A” if:

- A repeatedly or continuously engages in behaviour towards another person, B, that is controlling or coercive; and
- At the time of the behaviour, A and B are personally connected; and
- A knows or ought to know that the behaviour will have a serious effect on B.



Section 76 of the Serious Crime Act 2015

PUBLIC CONFIDENCE

A and B are “personally connected” if:

- They are in an intimate relationship; or
- They live together and are either members of the same family; or
- They live together having previously been in an intimate relationship with each other



Section 76 of the Serious Crime Act 2015

PUBLIC CONFIDENCE

Meaning of “serious effect”

- If it causes B to fear, on at least two occasions that violence will be used against them
- If it causes B serious alarm or distress which has a substantial adverse effect on their day-to-day activities



Section 76 of the Serious Crime Act 2015

PUBLIC CONFIDENCE

Day-to-Day activities may include, but are not limited to:

- Stopping or changing the way someone socialises
- Physical or mental health deterioration
- A change in routine at home including those associated with mealtime or household chores
- Attendance record at school
- Putting in place measures at home to safeguard themselves or their children
- Changes to work patterns, employment status or routes to work



Section 76 of the Serious Crime Act 2015

PUBLIC CONFIDENCE

Examples of relevant behaviours

- Isolating a person from their friends and family
- Monitoring their time
- Monitoring a person via online communication tools or using spyware
- Taking control over aspects of everyday life; where they can go, who they can see, what to wear, and when to sleep
- Forcing the victim to take part in criminal activity
- Disclosure of Sexual Orientation
- Depriving the victim of access to support services



Perpetrators

PUBLIC CONFIDENCE

Prosecutors are aware that perpetrators:

- Will often tailor their conduct to their victim
- Can be highly manipulative, taking steps to disrupt or mislead an investigation and prosecution e.g. making counter allegations or arguing that actions were taken in self-defence
- Will take other steps to mislead e.g. altering behaviour when being watched or supervised; using others to assert control over the victim; accusing the victim of nagging; making spurious complaints to authorities
- Will often target vulnerable people
- Make repeated applications for variations of restraining orders
- Minimise, or give mitigation, for their offending behaviour



Stalking and Harassment

PUBLIC CONFIDENCE

- The behaviour deployed under each of these offences might be exactly the same
- Controlling or coercive behaviour specifically applies to abuse in an ongoing relationship where the parties are personally connected
- Stalking and Harassment offences may be appropriate if the victim and perpetrator were previously in a relationship, but no longer live together
- Stalking and Harassment can be charged in relation to activity between people who do not know each other, and may not have even met
- It is the status of the relationship at the time of the offending behaviour that is relevant
- Controlling or coercive behaviour does not apply in cases where the victim is aged under 16, and the perpetrator is aged 16 and over with responsibility for the child.



Performance update – the National picture

PUBLIC CONFIDENCE

- More than 300 prosecutions of controlling or coercive behaviour since the law was introduced, with many involving control of victims through the internet, tracking software and social media platforms
- Two new mandatory e-learning modules developed for prosecutors in relation to evidence-led prosecutions and controlling or coercive behaviour
- Sharing our knowledge of controlling or coercive behaviour with National Police Regional Domestic Abuse Leads
- CPS has carefully reviewed cases and early analysis has shown that prosecutors are appropriately applying the legal guidance
- The majority of victims of controlling or coercive behaviour wait until a violent act before making a report to the police



Performance update – the Local picture

PUBLIC CONFIDENCE

- CPS Wessex, covering Hampshire & IOW, Wiltshire and Dorset, routinely achieves the highest conviction rate for Domestic Abuse cases in the country
- In Hampshire & IOW, we have prosecuted 16 cases of controlling or coercive behaviour since the legislation was introduced
- 81% of cases have resulted in a conviction
- Out of those 16 cases:
 - 7 defendants pleaded guilty which meant that the victim did not have to attend court to give evidence
 - 6 cases resulted in the defendant being convicted after a trial
- Currently have 24 “live” cases in Hampshire & IOW that have either been referred to us for charging advice, or that are currently being prosecuted



Case Study 1

PUBLIC CONFIDENCE

- The victim was a vulnerable young woman, and the defendant took advantage of this to exercise continuous control over her:
 - Restricted her access to her own bank account
 - Limited her contact with family & friends
 - Had full control of her phone
 - Checked her phone logs
 - Forbid her to use her phone outside of their flat
 - Made her cook for him every day
 - Did not allow her to go shopping on her own
 - Accompanied her to a job interview
 - Chose her clothes and underwear



Case Study 1

PUBLIC CONFIDENCE

- On one occasion she could not find the underwear he wanted her to wear, and as a result, he hit her hard in the face causing a black eye
- When, according to his claims, she got in to debt, he tried to coerce her in to prostitution
- Arrested following a call to the police by the victim's grandmothers when they saw that their granddaughter could not escape from the mental power the defendant had over the victim
- The defendant was aged 22.
- He was sentenced to 12 weeks imprisonment, suspended for 12 weeks for the controlling and coercive behaviour
- 4 weeks imprisonment, suspended for 12 weeks, for assault by beating
- Restraining order forbidding him from any form of contact with the victim



Case Study 2

PUBLIC CONFIDENCE

- Domestic relationship between mother and son
- The son was controlling of his mother:
 - Demanded money and tobacco
 - Threatened to cause damage if his demands were not met
 - Called her vulgar names
 - Refused to move out of her address
 - Demanded her to come home, with threats to smash up her house
 - Demanded a lift and smashed glasses and kitchen tiles when she refused
 - Smashed a photo frame during an argument
 - Broke her phone and threw a mug of tea at a fence, causing his mother to fear violence
 - Victim became depressed and was living in fear



Case Study 2

PUBLIC CONFIDENCE

- Witnessed by other members of the family who provided statements to the police
- Case proceeded to trial.
- Victim gave evidence but quite reluctantly because she did not want to completely lose her relationship with her son
- The family witnesses were able to detail incidents and describe the victim's change in demeanour



Case Study 2

PUBLIC CONFIDENCE

The defendant was found guilty and sentenced to:

- Community Order for 18 months
- Attendance on a Thinking Skills Programme
- 40 days Rehabilitation Activity Requirement
- 100 hours unpaid work
- £620 costs
- 2 year restraining order

- The restraining order was carefully worded to respect the wishes of the victim – the order prevented him from going to her house, but still allowed them to have contact



Special Measures

PUBLIC CONFIDENCE

“Achieving best evidence”

- Screens
- Live link
- Evidence given in private
- Removal of wigs and gowns
- Video recorded interview
- Evidence through an intermediary
- Press reporting restrictions



Victim Personal Statements

PUBLIC CONFIDENCE

- The victim has the opportunity to make a Victim Personal Statement (VPS)
- The VPS gives victims the opportunity to describe the wider effects the crime has had on them, to express their concerns and indicate whether or not they require support
- Entitled to say whether they would like to read their VPS aloud in court, whether they would like it to be played (if recorded), or read aloud for them by someone else
- A VPS can be taken at any time before sentence
- Can be extremely useful in controlling or coercive behaviour cases to demonstrate to the court the impact the behaviour had on the victim, how it made them feel and whether it caused them to change their normal routines etc...
- The Judge will consider the content of a VPS when sentencing



Victim Communications and VRR

PUBLIC CONFIDENCE

- If the CPS has decided to substantially alter a charge or has decided to stop a case, the prosecutor must write to the victim to provide an explanation
- In certain cases, including the types of cases we have talked about today, the victim should receive a letter of explanation within 24 hours
- The victim is also entitled to request to have a meeting with the prosecutor if that would help them to understand what has happened in their case
- In qualifying cases, the victim has the right to request a review of the decision not to charge, or not to continue with a prosecution, under the Victims' Right to Review scheme



And finally...

PUBLIC CONFIDENCE

- Any questions?
- Contact details:

Wendy Wyeth, Inclusion and Community Engagement Manager
wendy.wyeth@cps.gsi.gov.uk or call 02380 673 873

www.cps.gov.uk

Legal Guidance

Resources for Victims & Witnesses

More Case Studies

Examples of learning from our local CPS Wessex
Scrutiny Panels



