

28 August 2026

NSW Department of Communities and Justice
Policy, Reform and Legislation Branch

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Dear Review Team

NSW Coercive Control Legislative Review

People with Disability Australia (PWDA) is a disability rights and advocacy organisation made up of, and led by, people with disability. We are a peak, not-for-profit non-government organisation that represents the interests of people with all kinds of disability and the national peak for LGBTQIA+ people with disability. We are funded to engage in disability advocacy on behalf of people with disability nationally and in New South Wales.

This submission has been endorsed by:

- National Mental Health Consumer Alliance
- Physical Disability Australia
- Being – Mental Health Consumers
- Muscular Dystrophy NSW
- Family Advocacy
- Western Sydney Community Forum

As noted in the discussion paper, when the Bill was drafted, a decision was made to limit its application to current and former intimate partners.¹ The current legislative review provides a crucial opportunity to consider whether the offence should be extended to other relationships.

This submission focuses on consultation question 5 (scope of relationships) and calls on the NSW Government to extend the coercive control offence to disability carers and support workers, paid or unpaid.

Expanding the offence

It is well-documented that domestic and family violence occurs in these relationships.² As the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission) noted, women and girls with disability experience family, domestic and sexual violence in a ‘broader range of contexts and relationships’.³ The Disability Royal Commission expressly stated that ‘[p]erpetrators of domestic and sexual violence, abuse, neglect and exploitation include disability support workers...’⁴ and that ‘[w]omen with disability can have their disability and needs exploited, including to isolate and coercively control them’.⁵

There is often a heavy reliance on a perpetrator for support, with limited opportunity to change the situation due to factors such as:

- Social isolation;
- Forced dependence on the perpetrator for daily care and support;
- Perpetrator control over access to finances, communication devices, and/or assistive technology;
- Restrictive practices such as restraints and seclusion; and

¹ NSW Department of Communities and Justice, *Statutory Review of Coercive Control Reform: Discussion Paper — Review of Part 3, Division 6A of the Crimes Act 1900 (Abusive Behaviour towards Intimate Partners)* (Discussion Paper, July 2026) 24.

² *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 3, 105.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

- Fear, limited opportunities, and anxiety about potential reprisals or disbelief when reporting abuse.

The Disability Royal Commission's final report includes the following case study of coercive control perpetrated by a disability support worker:

In Public hearing 17, 'Chloe' gave evidence on the violence and abuse perpetrated by her support worker. Chloe lives with cerebral palsy and uses a wheelchair. She lives alone in her own house but needs support with personal care and daily living activities. Chloe described how one male support worker groomed her:

He tricked me into thinking I was special, he used to tell me I was a princess. He promised me lots of things. He told me he loved me.

Over time, the support worker exerted coercive control over Chloe that extended to financial exploitation. He also sexually and physically abused her, with one of the assaults resulting in pregnancy and another in a miscarriage. Chloe's support worker was charged with multiple counts of rape, grievous bodily harm, torture and assault. However, he was not convicted. Chloe described a negative experience of being a witness in the criminal proceeding, stating '[the jury] saw me as disabled and a liar, and he got off'.⁶

Excluding disability support workers as potential perpetrators of coercive control ignores the reality of many people with disability and leaves a lacuna in legal protection against such abuse.

The Disability Royal Commission recommended that states and territories amend their legislative definitions of family and domestic violence, and any relevant laws, to include 'all relationships in which people with disability experience family and domestic violence, including but not limited to carer and support worker relationships'.⁷

⁶ Ibid 117.

⁷ *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 344.

We cannot afford to wait any longer to expand the offence to carers and support workers. The Disability Royal Commission warned that '[i]nconsistencies and gaps in legal protections for people with disability across Australia contribute to the continuation of violence and abuse'.⁸

Almost three years on from the Disability Royal Commission's final report, this review presents a critical opportunity to close that gap in relation to coercive control of people with disability.

Human rights considerations

Extending the coercive control offence to disability support workers and carers would also ensure compliance with Australia's obligations under the *Convention on the Rights of Persons with Disabilities* (CRPD).

Article 16(1) of the CRPD requires Australia to take 'all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from **all forms of exploitation, violence and abuse**, including their gender-based aspects'.⁹

Article 16(5) requires Australia to 'put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted'.¹⁰

Article 16 imposes immediately applicable obligations on States Parties. Those obligations cannot be deferred by reference to progressive realisation or the availability of resources.¹¹ We therefore urge the NSW Government to immediately extend the current offence to apply to disability carers and support workers, without waiting for further legislative reviews or other law and policy processes.

⁸ Ibid 340.

⁹ *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 2515 UNTS 3 (entered into force 3 May 2008) art 16(1).

¹⁰ Ibid art 16(5).

¹¹ Ibid art 4(2).

An opportunity to be a leader on disability rights

Expanding the current offence to apply to disability carers and support workers would provide a legislative model that other jurisdictions could adopt. Its impact could therefore help to close the justice gap for people with disability not only in Australia, but internationally.

Addressing concerns

The following section addresses concerns raised in section 5.2.4 of the discussion paper about the risk of criminal law overreach if the current offence is extended to other relationships.

a) Criminal law overreach in relationships where control is expected

The discussion paper states:

*The review considers the concerns about over-reach raised during the Bill's passage remain. These risks would be even greater if the offence could apply to parent and child relationships and other carer relationships. Many ordinary parenting behaviours are engaged in **with the intent to control a child or require them to do something**, and could therefore be inadvertently captured if the other elements of the offence are not also reformed to be more restrictive.*¹²

We emphasise that this concern should not apply to disability carers and support workers because it is not their role to control, or otherwise require, people with disability to 'do something'. Disability carers and support workers should act in accordance with the will and preferences of the people with disability they support.¹³ Controlling behaviours fall outside the scope of ordinary carer and support worker conduct.

¹² NSW Department of Communities and Justice (2026) *Statutory review of coercive control reform: discussion paper – review of Part 3, Division 6A of the Crimes Act 1900 (Abusive behaviour towards intimate partners)*, NSW Department of Communities and Justice, NSW Government, accessed 24 August 2026 p 27.

¹³ For example, s 6(1)(a) of the *National Disability Insurance Scheme (Code of Conduct) Rules 2018* (Cth), requires National Disability Insurance Scheme disability support workers to 'act with respect for individual rights to freedom of expression, self-determination and decision-making in accordance with applicable laws and conventions.'

b) Concerns about dangerous community narratives

The discussion paper states:

It is also recognised that while some stakeholders strongly advocate to extend the offence to carer relationships, others have warned this could create a dangerous narrative in the community that all carers are abusive. If the offence were to apply to other relationships, the scope of included relationships would need to be closely considered. An impact assessment would also be undertaken to examine the potential reach of the offence and impact on the criminal justice system.¹⁴

PWDA is deeply concerned that concerns about stereotyping carers could be used as a rationale to deny people with disability the protection of a measure that would promote their human right to freedom from exploitation, violence and abuse. If the logic of the concern about stereotyping is followed, coercive control should not be criminalised at all, as it would send a message that all current and former intimate partners are abusive. Criminalising coercive control by carers does not send a message that all carers are abusive. Rather, it reflects the reality that some carers are abusive and sends a clear message that those who perpetrate coercive control will be held accountable by the law.

In any case, legislation already exists that specifically criminalises conduct by disability carers and support workers. For example, s 66F of the *Crimes Act 1900* (NSW) contains an offence concerning sexual intercourse by a person responsible for the care of a person with a cognitive impairment.¹⁵ Further, the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) already applies where a person ‘has or has had a relationship involving his or her dependence on the ongoing paid or unpaid care of the other person’.¹⁶ Expanding the coercive control offence would align the offence with broader domestic and family violence legislation, rather than entering new territory.

¹⁴ NSW Department of Communities and Justice (2026) *Statutory review of coercive control reform: discussion paper – review of Part 3, Division 6A of the Crimes Act 1900 (Abusive behaviour towards intimate partners)*, NSW Department of Communities and Justice, NSW Government, accessed 24 August 2026.

¹⁵ *Crimes Act 1900* (NSW) s 66F.

¹⁶ *Crimes (Domestic and Personal Violence) Act 2007* (NSW) s 5(1)(f).

c) Availability of other offences

The discussion paper states:

There are existing offences which could capture coercive and controlling behaviours in broader domestic relationships. These include:

- ***stalking and intimidation under section 13(1) of the CDPVA with the intention of causing fear of physical or mental harm or knowing such fear is likely.*** *It is noted that the definitions of intimidation and stalking enable the court to have regard to any pattern of violence. The Crimes (Domestic and Personal Violence) and Other Legislation Amendment Bill 2026, which was introduced in Parliament on 5 May 2026, also proposes to amend section 13 to separately criminalise covert stalking that occurs in circumstances where a reasonable person would consider that, if the victim were aware of the stalking, the victim would fear physical or mental harm.*
- ***intimate image or audio material offences in Part 3, Division 15C of the Crimes Act.***
- ***criminal neglect under section 44 of the Crimes Act (failure of persons to provide necessities of life).***¹⁷

These offences do not cover all circumstances of coercive control of people with disability, just as they do not cover all circumstances of coercive control in intimate partner relationships. Coercive control that falls outside stalking and intimidation, intimate image or audio material offences, and criminal neglect remains uncaptured. The rationale for creating the NSW coercive control offence was not simply that particular abusive acts were previously lawful. It was that the existing criminal law was fragmented and incident-based. While individual offences captured some constituent behaviours, they did not adequately capture the cumulative pattern of conduct through which coercive control is exercised.¹⁸ A broader offence was therefore considered necessary for intimate partner relationships; the same rationale applies to disability support worker and carer relationships.

In conclusion, it is critical that the coercive control offence is expanded to apply to disability carers and support workers. At the same time, we do not believe the concerns detailed in the discussion paper apply to disability support workers and carers, and those concerns should not be used as a rationale to delay expansion of the offence to these relationships.

¹⁷ NSW Department of Communities and Justice (2026) *Statutory review of coercive control reform: discussion paper – review of Part 3, Division 6A of the Crimes Act 1900 (Abusive behaviour towards intimate partners)*, NSW Department of Communities and Justice, NSW Government, accessed 24 August 2026, 27.

¹⁸ Joint Select Committee on Coercive Control (2021) *Coercive control in domestic relationships*, Report 1/57, Parliament of New South Wales, NSW Government, accessed 24 August 2026, 18-20.

We also urge the Government to ensure that data is collected on the impact of the coercive control offence of people with disability, as well as First Nations, culturally and linguistically diverse people and LGBTQIA+ people.

We thank you again for the opportunity to provide this submission. Please do not hesitate to contact Lisa Ira, Expert Advisor – International and Human Rights, at lisai@pwd.org.au or on 0493 490 759 if you wish to discuss this submission further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Megan', with a stylized flourish extending from the end.

Megan Spindler-Smith
Acting-CEO
People with Disability Australia