



Home Office

# Review of the Controlling or Coercive Behaviour Offence

March 2021



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# Executive summary

## Background

On the 29 December 2015, the offence of controlling or coercive behaviour (CCB) came into force through Section 76 of the Serious Crime Act 2015. The stated aim of this new offence was to “close a gap in the law around patterns of coercive and controlling behaviour during a relationship between intimate partners, former partners who still live together, or family members” (Home Office, 2015a). The Home Office has undertaken a rapid review of the CCB offence, to assess its effectiveness and whether any changes to the legislation, or any wider policy interventions, are needed.

The review involved an assessment of the available quantitative data from the criminal justice system (CJS) and a review of the academic literature, both carried out by analysts in the Home Office. Separately, policy officials undertook a series of consultations with a targeted group of stakeholders to get views on the operational application and practicalities around the CCB offence.

## Key findings

The number of CCB offences recorded by the police has increased from 4,246<sup>1</sup> in 2016/17 to 24,856<sup>2</sup> in 2019/20. In 2019<sup>3</sup>, 1,112 defendants were prosecuted for CCB offences (either as the principal or non-principal offence<sup>4</sup>), which is an increase of 18% from the previous year. In addition, the average length of custodial sentences for CCB have consistently been longer compared with those for assaults (which are the most common domestic abuse-related offences recorded) and those for stalking<sup>5</sup>.

These increases demonstrate that the CCB offence is being used across the CJS, indicating that the legislation *has* provided an improved legal framework to tackle CCB and that, where the evidence is strong enough to prosecute and convict, the courts are recognising the severity of the abuse.

However, there is still likely to be significant room for improvement in understanding, identifying and evidencing CCB, as prevalence estimates<sup>6</sup> from the Crime Survey for England and Wales suggest that currently only a small part of all CCB comes to the attention of the police or is recorded as CCB. The literature and stakeholder engagement exercise point to difficulties for both victims and police in recognising CCB, and academic studies have found specific examples of missed opportunities to record CCB. When attending domestic abuse incidents, it is vital that the police (including domestic abuse specialists) have the training and specialist resources needed to establish whether there are patterns of controlling or coercive behaviours underlying the incident that led to a police callout.

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<sup>1</sup> This figure is based on data received from 38 of the 43 territorial police forces in England and Wales.

<sup>2</sup> This figure is based on data received from 42 of the 43 territorial police forces in England and Wales.

<sup>3</sup> Please note that while data from the police, Crown Prosecution Service (CPS) and Office for National Statistics (ONS) are provided in financial years (April to March), Ministry of Justice (MoJ) data are presented in calendar years and, therefore, cover different periods.

<sup>4</sup> Defendants may be prosecuted for more than one offence. In such cases, the most serious offence with which the defendant is charged at the time of finalisation is referred to as the principal offence, while any further offence is referred to as a non-principal offence.

<sup>5</sup> Stalking carries a higher maximum sentence than CCB (ten years compared with five years for CCB).

<sup>6</sup> There remains considerable uncertainty regarding the reliability of this estimate. This is discussed in Chapter 2.

While volumes of CCB offences being recorded have increased each year, the proportion of CCB offences leading to a charge has decreased from 11% in 2017/18 to 6% in 2018/19.<sup>7</sup> However, falling charge rates have been seen across many offences over the same time period, and so do not necessarily reflect specific difficulties in charging CCB. A very high proportion of offences (85% in 2018/19) were finalised due to evidential difficulties (including where victims withdrew from the process), with both the literature review and the stakeholder engagement exercise highlighting that evidencing CCB is a significant challenge for police and prosecutors, likely due to the nature of CCB as a course of conduct offence that often includes non-physical abuse. Furthermore, while the conviction ratio for prosecutions (where defendants were charged with CCB as the principal offence) increased from 38% in 2016 to 60% in 2018; it then fell to 52% in 2019.

Most prosecutions involving CCB were for cases where there were co-occurring offences, for example, with offences of violence against the person. There are a number of plausible explanations for this. It may indicate that CCB is more likely to be reported or identified by the police when another offence occurs, or it could suggest that prosecutors may decide to charge CCB alongside another offence to not limit the potential custodial sentence length to the maximum sentence of five years for CCB. Further research and monitoring is needed to improve understanding of CCB trends and their drivers.

### **Limitations of the review and recommendations for further research**

Due to the timing of this report, only four years of data were available for analysis to support this review, and there is limited research literature examining the impacts of the offence. As a result, it is not yet possible to draw definitive conclusions regarding the impacts and effectiveness of this new offence, including whether there is a need for legislative changes to be made.

There is also a lack of robust data on the prevalence of CCB, making it difficult to measure how effective the offence has been at capturing CCB offending, and how much remains undetected. There is no common statistical definition of CCB used across survey data, administrative data, and data from third-sector organisations, making it difficult to draw comparisons between different sources.

In addition, there is a lack of systematic data available across the CJS on the characteristics and nature of CCB offences and victim outcomes, which has hindered a more detailed analysis of how criminal justice outcomes may differ by the type of abuse or victim/perpetrator characteristics.

### **Research recommendations**

1. Building on the previous work of the ONS in 2017/18, robust estimates of the prevalence and characteristics of CCB should be developed.
2. Work should be undertaken, in consultation with victims of CCB and with domestic abuse support services, to develop suitable measures on victim outcomes, with a view to monitoring outcomes for victims of CCB going forward.

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<sup>7</sup> Data on the outcomes of CCB investigations were only available from a subset of police forces, and this report therefore focuses on the proportions of outcomes for those forces that provided data, rather than volumes

3. The evidence collected suggests that while there have been improvements in the awareness and understanding of CCB legislation, due to the newness of the offence there may remain some confusion about when and how CCB should be investigated and charged. Further, there is evidence to suggest that investigating and building a case can be more time-consuming and complex than for other offences. It is therefore recommended that further research be undertaken across the CJS to assess the current levels of awareness and understanding of the legislation, and its application in practice, in order to identify any required changes to the available guidance and training.
4. The literature review along with the stakeholder engagement exercise provided some (limited) evidence pointing towards potential areas for legislative change. The most prominent among these is the suggestion that the legislation should be extended to encompass former partners who do not live together, due to a perception that some post-separation abuse is being missed, and that there may be confusion among police and prosecutors regarding how abuse which continues beyond the end of a relationship should be recorded and charged. Some academics and stakeholders expressed the view that the current stalking and harassment offences are not applicable or appropriate in all cases of post-separation abuse.
5. Some academics and stakeholders argued that the maximum sentence length for CCB should be increased from five to ten years in line with the current maximum sentence for stalking, based on the potential severity of CCB which may include both physical and non-physical violence over an extended period.
6. The review also found evidence of challenges in evidencing CCB. Among other explanations, some of the literature linked this to the perceived high evidential threshold of proving a 'serious effect' on the victim, and the practical difficulties in collecting such evidence. As such it has been suggested within the literature that this element of the legislation could be revised, in line with the Domestic Abuse (Scotland) Act 2018.
7. It must be highlighted, however, that due to the relative recency of the offence, the evidence in this area remains limited and the potential impacts of any such changes are not well evidenced. This review therefore puts forward the following recommendations.
  - i. If legislative changes are implemented, the operation of the legislation should be monitored and reviewed to assess the impact of such changes and identify any unintended consequences.
  - ii. If legislative changes are not made at this time, further research should be undertaken to ascertain the need for, and impact of, such changes to the legislation. This should consider both the impacts on victims and on the CJS.

# 1. Introduction

## Background to the review

On the 29 December 2015, the offence of controlling or coercive behaviour (CCB) came into force through Section 76 of the Serious Crime Act 2015. The stated aim of this new offence was to close “*a gap in the law around patterns of coercive and controlling behaviour during a relationship between intimate partners, former partners who still live together, or family members*” (Home Office, 2015a, p 3).

The Government definition of CCB as set out in the statutory guidance (Home Office, 2015b, p 3) is as follows:

- “*Controlling behaviour: 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.*”
- “*Coercive behaviour: a continuing 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.*”

In addition, the controlling or coercive behaviour must take place “*repeatedly or continuously*”; the pattern of behaviour must have a “*serious effect*” on the victim; and the behaviour of the perpetrator must be such that they knew or “*ought to know*” that it would have a serious effect on the victim.<sup>8</sup>

It was also anticipated that the introduction of this offence would enable the criminal justice system (CJS) to move beyond an exclusively ‘violent incident model’ (Stark, 2012), in which incidences of domestic abuse are investigated and prosecuted as individual and unconnected occurrences of violence, which can mask the underlying patterns of coercion or control in an abusive relationship (Tuerkheimer, 2004).

The review consisted of three elements:

- an assessment of the available quantitative data from the CJS carried out by analysts in the Home Office;
- a review of the academic literature, also carried out by analysts in the Home Office; and
- a stakeholder engagement exercise, which involved interviews, workshops and surveys with a targeted group of stakeholders, that was conducted by Home Office policy officials.

The short timelines of this review, which aimed to inform the Domestic Abuse Bill, have precluded the collection of bespoke data or detailed qualitative research such as case file analysis. In addition, there are only four full years of data available from most data sources, given the limited time since the introduction of the offence. As identified in

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<sup>8</sup> An explanation of each of these requirements can be found in the statutory guidance (Home Office, 2015b)

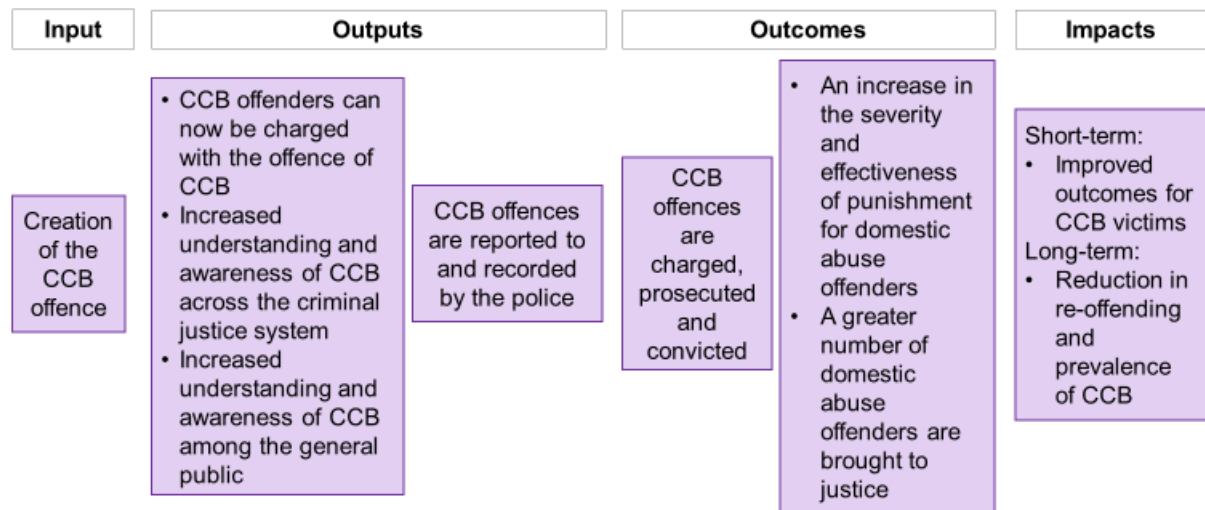


Chapter 5, it is recommended that more detailed research is undertaken in the future, when more quantitative data and academic research are available.

## Logic model

In order to undertake this review, Home Office Analysis and Insight, in collaboration with policy officials, developed a logic model in line with the Magenta Book guidance (HM Treasury, 2020). Logic models identify how a policy is expected to achieve its objectives, by mapping out the relationships between a policy’s inputs, outputs, outcomes and impacts. They provide a useful framework to review or evaluate the realised impacts of a policy intervention. Figure 1 sets out the logic model developed for the CCB offence, drawing on related documents such as the accompanying impact assessment and statutory guidance.

**Figure 1 - Logic model for the CCB offence**



When the CCB offence came into force, statutory guidance was issued and communications on the new legislation were released. It was expected that the new offence would increase the understanding and awareness of CCB among the general public and across the CJS, including the police, the Crown Prosecution Service and the courts. In addition, it was anticipated that the offence would provide the CJS with a clearer and stronger legal framework to pursue cases of domestic abuse where there are ongoing or repeated patterns of CCB.

It was expected that the introduction of this legislation would lead to CCB being reported to and recorded by the police as an offence, as patterns of CCB become recognised and evidenced by the police and other organisations. It was also anticipated to result in improved criminal justice outcomes (an increase in prosecutions, convictions, longer sentencing and the increased use of protection orders and perpetrator programmes where appropriate) for domestic abuse crimes, due to an increased awareness and understanding of the offence among the Crown Prosecution Service, judges and juries.

In terms of impacts, the new offence was intended to increase the number of offenders being brought to justice, and lead to stronger punishments in domestic abuse cases where CCB is present. It was also intended to improve outcomes for victims and their families, by increasing the number of victims receiving support, and by allowing earlier intervention, including the use of protection orders. In the longer term, it was anticipated that the new offence would lead to a reduction in the prevalence of domestic abuse, through better recognition of these behaviours and by the punishment of CCB offences, providing a deterrent to would-be perpetrators and preventing re-offending.

The logic model in Figure 1 has been used to produce the list of research questions below. The review was based on these research questions, with the evidence against each research question assessed in Chapter 5.

1. Has there been an increase in understanding and awareness of CCB across the criminal justice system?
2. Has there been an increase in understanding and awareness of CCB among the general public?
3. Is the new offence being reported to and recorded by the police?
4. Are CCB offenders being charged, prosecuted and convicted?
5. Has there been an increase in the number of offenders being brought to justice, and an increase in the severity of punishment?
6. Has there been an improvement in outcomes for victims of CCB?
7. Has there been a reduction in the prevalence of CCB?

## 2. Analysis of quantitative data

### Introduction

This chapter draws on data relating to the prevalence of controlling or coercive behaviour (CCB), and the criminal justice system (CJS) response to the CCB offence. It presents data from the Office for National Statistics (ONS), the Home Office, Ministry of Justice (MoJ) and the Crown Prosecution Service (CPS).

### The prevalence of CCB

The Crime Survey for England and Wales (CSEW) is the main source of evidence for national estimates of domestic abuse prevalence. The CSEW is a large-scale, annual survey that asks members of the public about their experience of victimisation. Questions on domestic abuse, sexual violence and stalking appear in a self-completion module, where the respondent answers questions anonymously using a digital device. At present, there is no robust measure of the prevalence of CCB specifically. This report, therefore, draws on the available CSEW evidence on the prevalence of domestic abuse and CCB questions trialled by the ONS in 2017/18 in order to estimate the prevalence and nature of CCB.

In the 2019/20 survey, 6.1% of adults aged 16 to 59 in England and Wales reported having experienced domestic abuse in the last year, which equates to a total of 2.0 million adults aged 16 to 59 in 2019/20 (ONS, 2020a). This is similar to the previous year when 6.3% (2.1 million) of adults aged 16 to 59 experienced domestic abuse. As in previous years, in the 2019/20 survey women were around twice as likely as men to have reported experiencing domestic abuse (8.1% compared with 4.0%). In addition, as Figures 2 and 3 show, the reported prevalence of partner abuse (abuse carried out by a partner or ex-partner) was higher than that of family abuse (abuse carried out by a family member), and this has consistently been the case over time. In 2019/20, for instance, 4.5% of respondents aged 16 to 59 reported partner abuse, while 2.1% in this age group reported family abuse.

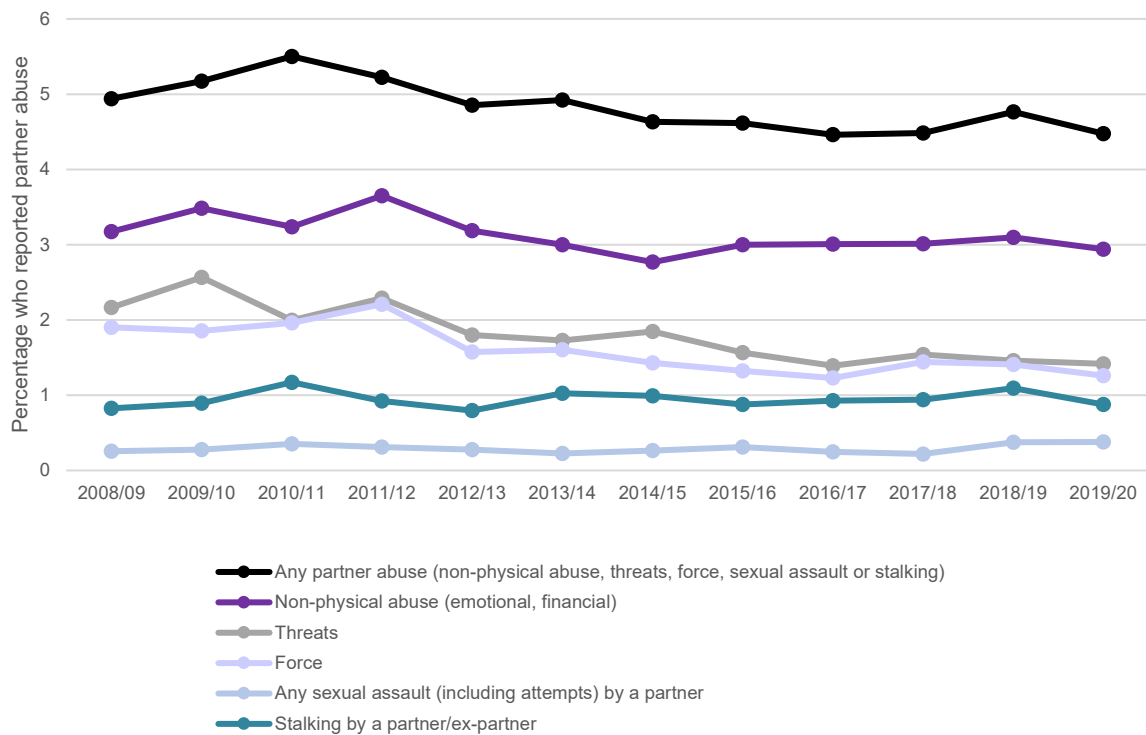
While CCB often includes both physical and non-physical forms of abuse, a key aim of the creation of the offence was to provide a clearer legal framework to capture patterns of non-physical domestic abuse, which were not prosecutable under alternative offences in the same way that forms of physical abuse might be. The CSEW asks respondents several questions to identify types of non-physical abuse, such as whether their partner has:

- isolated them from relatives and friends:
- humiliated or belittled them:
- controlled their access to household money and/or controlled how much they spend:
- monitored their letters, emails or texts; or
- kept track of where the respondent went.

As Figures 2 and 3 show, non-physical abuse is the most prevalent type of domestic abuse reported by respondents. The proportion of those reporting non-physical abuse by a partner has remained at around 3% of adults aged 16 to 59 since 2012/13. The

proportion of those reporting non-physical abuse by a family member has remained between 1% and 1.5% since 2008/09.<sup>9</sup> Force, threats and stalking behaviours were also experienced by victims of both partner abuse and family abuse. Domestic abuse-related sexual assault (including attempts) was less prevalent in family abuse (0.05%), but 0.4% of CSEW respondents reported having experienced it at the hand of a partner in the 2019/20 survey.

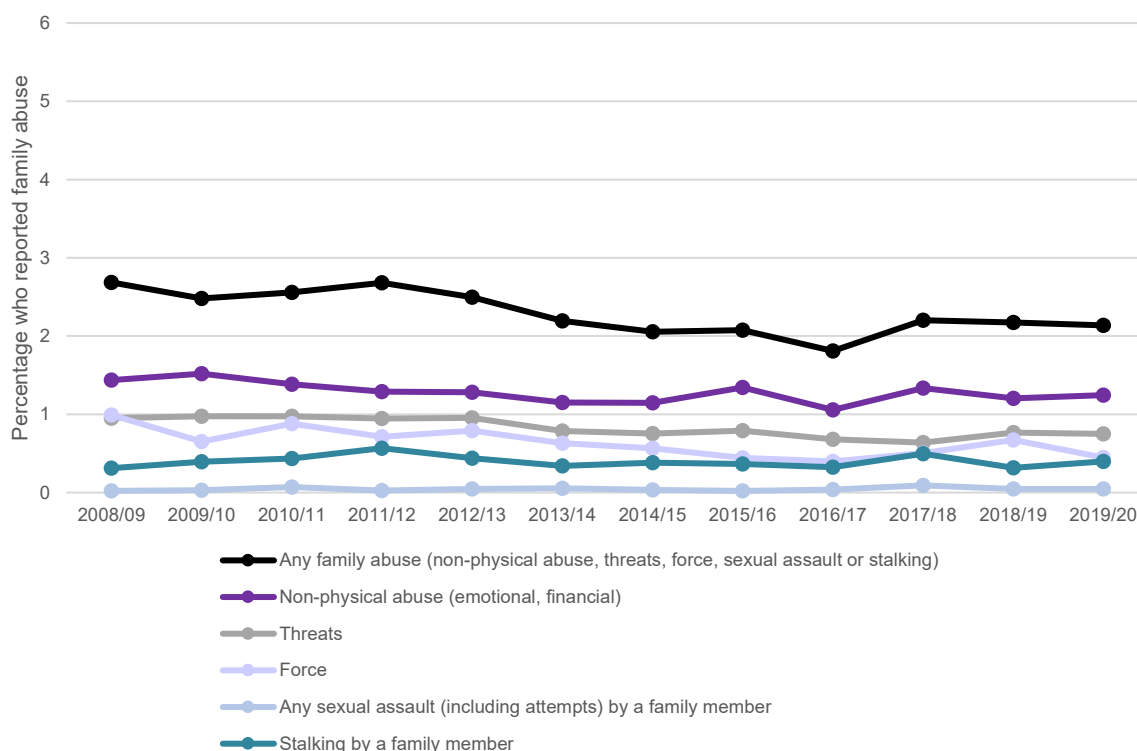
**Figure 2 – The percentage of 16 to 59 year olds in England and Wales who reported experiencing partner abuse, CSEW, 2008/09 to 2019/20**



Source: Office for National Statistics (2020a)

<sup>9</sup> These numbers do not add up to 6.1% overall as some victims report multiple types of abuse (i.e. by both family and a partner). Data have not been published on the proportion of respondents who reported suffering both partner abuse and family abuse.

**Figure 3 – The percentage of 16 to 59 year olds in England and Wales who reported experiencing family abuse, CSEW, 2008/09 to 2019/20**



Source: Office for National Statistics (2020a)

While the CSEW provides estimates of the prevalence of physical and non-physical domestic abuse, it does not fully capture the prevalence of coercive or controlling behaviour. These limitations are described by Myhill (2017: 35): “the self-completion module [includes] additional questions intended to capture financial abuse, isolation from family and friends, emotional abuse and frightening threats [but] lacks specific measures of the most common impacts of coercive control on victims, particularly ongoing anxiety and/or extreme fear, and restricted space for action”.

Myhill’s (2015) analysis of the 2008/09 CSEW found that 6% of men and 30% of women who reported intimate partner violence to the survey experienced what Myhill termed “*coercive controlling violence*”. Data provided by Citizens Advice, Women’s Aid, and SafeLives on the proportions of domestic violence victims suffering from CCB provides an unclear picture, with estimates varying between around 30% and over 90%. However, caution is advised with interpreting these data, as the definitions of coercive and controlling behaviour used by each organisation differ and some support services often deal with high harm cases of domestic abuse.

In an effort to capture CCB in the CSEW, the ONS trialled a set of questions in 2017/18. The results suggested that in 2017/18, 1.7% of those aged 16 to 59 had experienced CCB by a partner or ex-partner, and 0.6% of those aged 16 to 59 had experienced CCB by a family member. However, the ONS concluded that these questions require further development as “*there is uncertainty in whether the measure adequately captures victims of the offence as outlined in the statutory guidance*” (ONS, 2019a, p 7). For instance, there was a notable difference between the estimated prevalence of CCB compared with non-physical abuse, and there was a lower overall

prevalence of domestic abuse reported by the cohort who answered the CCB specific questions. Nevertheless, these indicative prevalence estimates would suggest that in 2017/18 around 572,000 adults aged 16 to 59 in England and Wales were victims of CCB by a partner or ex-partner, and around 202,000 adults aged 16 to 59 in England and Wales experienced CCB by a family member. Depending on the amount of overlap between victims of partner/ex-partner and family abuse,<sup>10</sup> the estimated total number of CCB victims aged 16 to 59 in 2017/18 could be between 572,000 and 774,000.

Further details on the above data are provided in Annex 1, alongside other data on the prevalence and characteristics of CCB.

### **Police recorded offences**

Since the CCB offence came into effect on the 29 December 2015, the volume of offences recorded by the police has increased steadily (ONS, 2020a), as shown in Figure 4. In each year, the majority of recorded CCB offences (93% to 94%) involved female victims.<sup>11</sup> However, besides victim sex, no other characteristics of the victims or perpetrators/suspects are consistently available to the Home Office for recorded CCB offences. It is therefore not possible to establish what proportion of the offences recorded was intimate partner abuse and what proportion was familial abuse.

#### *Volume of CCB offences recorded*

As shown in Figure 4, the number of recorded CCB offences has increased year on year, with the number of recorded offences more than doubling from 4,246 in 2016/17<sup>12</sup> to 9,053 in 2017/18, and nearly doubling again to 17,616 CCB offences recorded in 2018/19 (ONS, 2017; 2018; 2019b). Numbers continued to increase, albeit by a more moderate 41%, to 24,856 CCB offences being recorded in 2019/20<sup>13</sup> (ONS, 2020a). The numbers of recorded stalking offences have been similar to the number of CCB offences, and they have followed very similar upward trends over the last four years<sup>14,15</sup>, including those which are domestic abuse-related. Around seven in ten recorded stalking offences (69%) in 2019/20 were domestic abuse-related.

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<sup>10</sup> Data have not been published on the proportion of respondents who reported suffering CCB by both a partner and a family member in 2017/18.

<sup>11</sup> Correspondingly, Barlow et al (2019) found through their case analysis that perpetrators were almost exclusively male.

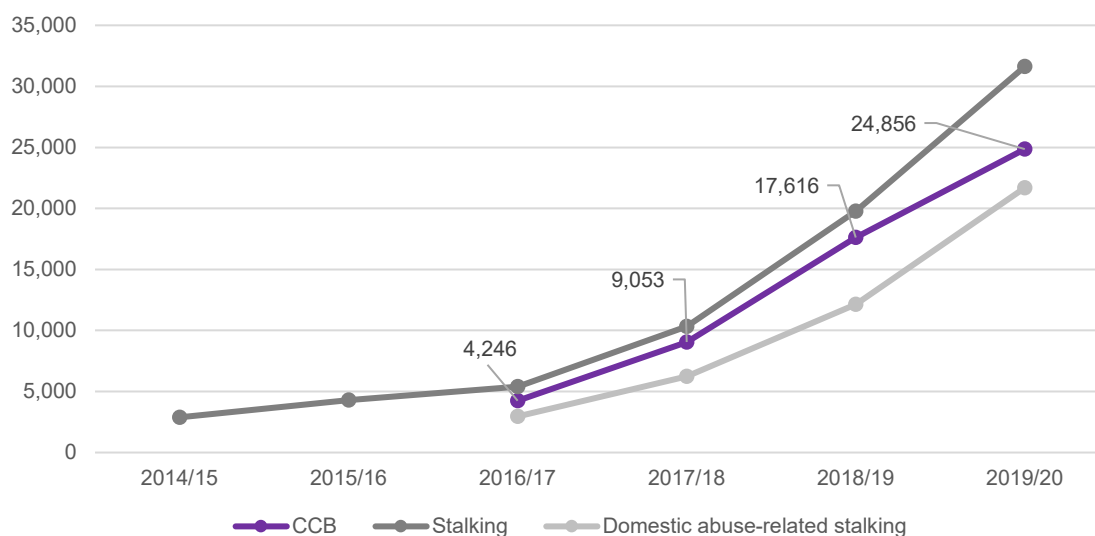
<sup>12</sup> For 2016/17, the total is based on data from 38 forces for which data were available. Data for 2017/18 and 2018/19 are from all 43 territorial forces in England and Wales.

<sup>13</sup> Please note that this figure for 2019/20 does not include data from Greater Manchester Police, and is therefore based on data from 42 of the 43 territorial forces in England and Wales.

<sup>14</sup> This is partly due to a counting rules change, which was effective from 2018/19 and is explained on page 16.

<sup>15</sup> Please note that while this report presents data up to the most recently available financial year, a further 13,692 CCB offences were recorded in the six months from April 2020 to September 2020 (Home Office, 2021).

**Figure 4 - Number of police recorded CCB offences (2016/17 to 2019/20) and stalking offences (2014/15 to 2019/20)<sup>1</sup>, including the proportion of stalking offences that were domestic abuse-related (2016/17 to 2019/20)<sup>2</sup>**



**Notes:**

1. The 2016/17 figure for CCB is based on 38 police forces. All figures for 2019/20 in this figure are based on 42 police forces as they do not include data from Greater Manchester Police.

2. This is partly due to a counting rules change, which was effective from 2018/19 and is explained on page 16.

Source: Office for National Statistics (2017; 2018; 2019b; 2020a) and Home Office (2021)

There are a number of possible reasons for these increases in CCB offences being recorded. Firstly, according to the ONS, increases in recording are “common for new offences and the rise could be attributed to improvements in recognising incidents of coercive control by the police and using the new law accordingly” (ONS, 2019b). In the first year, data on CCB offences were only available from 38 forces, while in the following years data were received from all 43 territorial police forces.

In addition, as the offence was introduced without retrospective effect (Home Office, 2015b), it is likely that the police would have initially encountered difficulties in building strong cases evidencing CCB, as evidence from before 29 December 2015 would not have been admissible.<sup>16</sup> Particularly in the first few months after the introduction of the offence, it may have been difficult to build sufficient evidence of a repeated pattern of abuse. This may have caused the number of recorded offences to rise over time, as the strength of CCB cases increased.

Further, there was also an increase in the recording of offences flagged as domestic abuse-related<sup>17</sup> over the same time period, with 758,941 domestic abuse-related crimes recorded by the police in England and Wales in 2019/20<sup>18</sup>, representing a 9% increase from the previous year and a 63% increase from 2016/17 (ONS, 2020a). The ONS suggests this is likely due to improved police recording practices and potentially an increased awareness and willingness to report among the public. Therefore, it is possible that there may have been an increase in the willingness of victims (or other

<sup>16</sup> It could be drawn upon as evidence of ‘bad character’, but not as proof of criminal conduct.

<sup>17</sup> The Home Office has been collecting information from the police on whether recorded offences are related to domestic abuse since April 2015. This system relies on the police flagging offences as domestic abuse-related and it is possible that some offences may not be correctly identified as domestic abuse-related.

<sup>18</sup> This figure does not include data from Greater Manchester Police.

individuals/organisations) to report CCB and domestic abuse more broadly over this period, although there is insufficient evidence on this.

It is likely that one of the key reasons for the increase is a change in the counting rules for recording 'course of conduct' offences. Generally, when police officers attend an incident where a victim alleges that they have been subject to several crimes committed against them by the same suspect, the most serious of these will be recorded in the official crime statistics. In many cases where CCB (or stalking) is present, it is likely that there will have been incidents of physical violence as well as non-physical abuse. When the CCB offence was introduced, the recording rules set out that unless any associated physical assault was more serious (i.e. it amounted to at least an offence of grievous bodily harm under section 18 of the Offences Against the Person Act), it was the CCB offence that should be recorded. However, an inspection by Her Majesty's Inspectorate of Constabulary (HMIC, now Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services, HMICFRS) indicated that this was proving challenging to manage, and that as a result the true level of CCB was not accurately reflected in the statistics. To seek to improve this, from 2018/19, the recording rules set out that in all cases "*where there is a course of conduct (stalking, harassment or controlling or coercive behaviour) in addition to one or more other substantive offences, then both the CCB (or stalking or harassment) and the most serious related offence should be recorded*" (Home Office, 2020a).<sup>19</sup> This change in the counting rules likely had an effect on the number of offences of CCB and stalking offences recorded from 2017/18 to 2018/19, as shown in Figure 4.

It is unlikely that the increase in police recorded CCB offences has been driven by an increase in prevalence of CCB. While CCB prevalence is not currently separately measured by the CSEW, the prevalence of domestic abuse has not changed significantly over this period. The gap between CSEW prevalence estimates for domestic abuse and domestic abuse-related offences being recorded by forces suggests that the majority of domestic abuse does not come to the attention of the police. This is supported by findings from the 2017/18 CSEW, which found that fewer than 1 in 5 of those experiencing domestic abuse (17.3%) reported the abuse to the police (ONS, 2019c). Similarly, CCB is likely to have high levels of under-reporting.

As stated in the previous section, it is estimated that the annual number of victims of CCB may be in the range of 572,000 to 744,000 (although this is subject to considerable uncertainty), and the number of domestic abuse victims aged 16 to 59 in 2019/20 is estimated at around 2 million. The 24,856 CCB offences recorded in 2019/20<sup>20</sup> are therefore likely to represent only a small fraction of this offending behaviour, with the majority of cases not coming to the attention of the police. Hence, despite the increase in the number of recorded CCB offences each year, it is likely that the majority of CCB is still not being reported to or recorded by the police.

### Recorded CCB offences compared with other domestic abuse-related offences

The total number of domestic abuse-related offences recorded by the police in 2019/20 was 758,941<sup>20</sup>, 30 times greater than the total estimated number of CCB offences (ONS, 2020a). The volume of recorded CCB offences is relatively low when

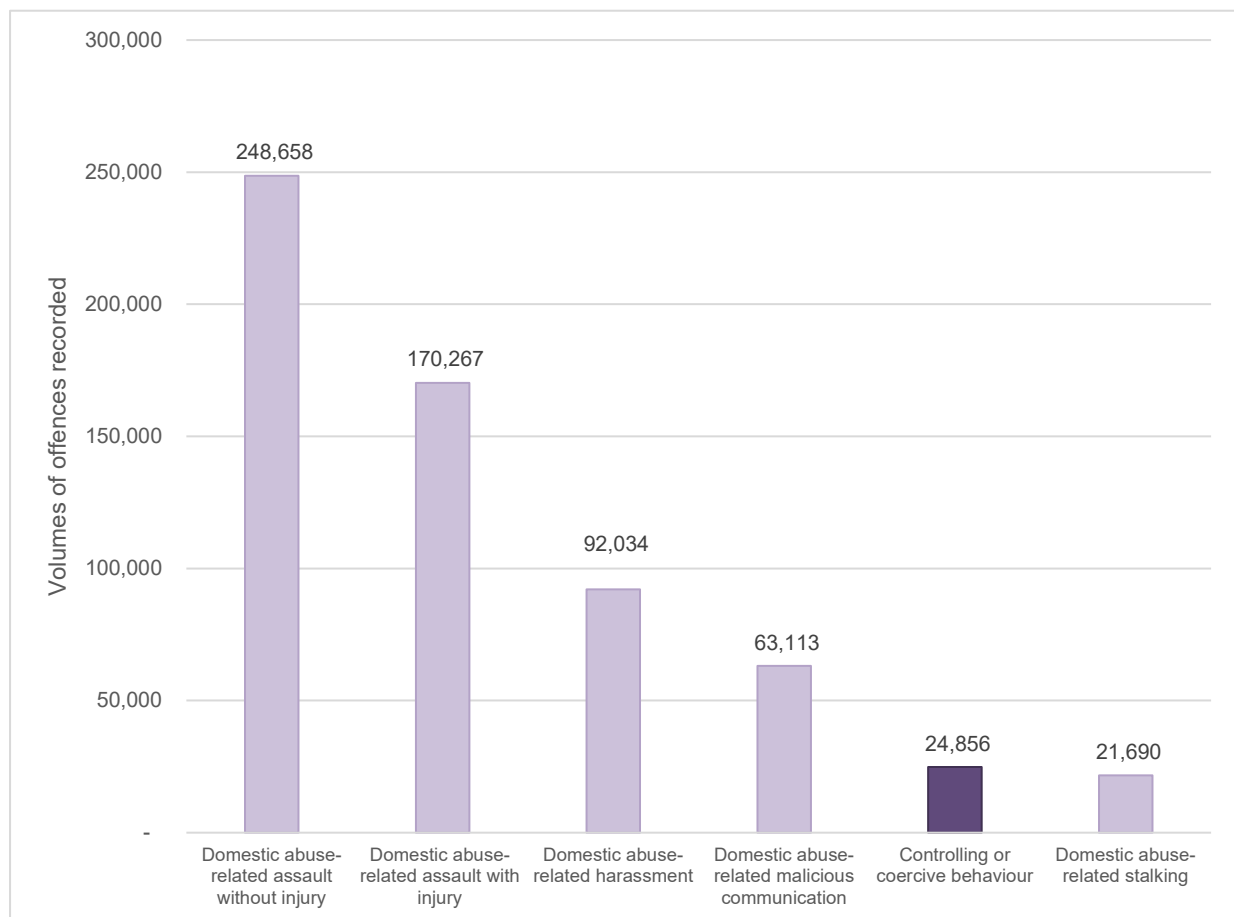
<sup>19</sup> This change took effect in April 2018 for stalking, harassment, and malicious communication offences, and it was amended to also apply to CCB offences from July 2018.

<sup>20</sup> This figure does not include data from Greater Manchester Police.



compared with other domestic abuse-related offences, as shown in Figure 5, and is only higher than volumes of recorded domestic abuse-related stalking. As ‘course of conduct’ offences, each individual CCB or stalking offence consists of repeated or ongoing patterns of abuse, whereas most other domestic abuse-related offences, by contrast, relate to an individual incident, such as a single assault. In addition, the legislation requires that, for the CCB offence, proof of the serious effect on the victim is provided, which, if not immediately obvious to attending officers, could prevent CCB from recorded. Any comparison between these offence types, and particularly comparisons of volumes, must take into account these differences. In this context, stalking offences (introduced in November 2012) may therefore provide a more suitable comparison to CCB, as they also involve a similar pattern of repeated or ongoing abuse.<sup>21</sup>

**Figure 5 – Number of CCB offences and other selected domestic abuse-related offences recorded by police forces in England and Wales, 2019/20<sup>1</sup>**



**Notes:**

1. These figures do not include data from Greater Manchester Police.

Source: Office for National Statistics (2020a) and Home Office internal database

<sup>21</sup> There is no specific legal definition of stalking, however, the police and CPS have adopted the following description: “a pattern of unwanted, fixated and obsessive behaviour which is intrusive. It can include harassment that amounts to stalking or stalking that causes fear of violence or serious alarm or distress in the victim.” As there is no such thing as a ‘typical’ stalking perpetrator or a ‘typical’ stalking victim, stalking can be committed against both former and current partners.

### Volumes and crime rates of CCB recorded offences regionally

Across England and Wales, an average of 44 CCB offences were recorded per 100,000 population in 2019/20 (ONS, 2020a).<sup>22</sup> The regions with the lowest rates of CCB offences were London (16 offences per 100,000 population) and the South West (32 offences per 100,000 population). The highest were East Midlands (75 offences per 100,000 population) and Yorkshire and the Humber (69 offences per 100,000 population).

This variation was even greater at police force level. While the Metropolitan Police recorded the third-highest volume of CCB offences in 2019/20 (1,388 offences), they recorded the lowest rate per population (16 offences per 100,000 population). The highest CCB crime rate of 197 offences per 100,000 population was recorded by Lincolnshire Police, which also recorded the second-highest volume of CCB offences in 2019/20 (1,499 offences).

The reasons for the variation between police force areas are not currently known, but may include differences in recording practices, prevalence, and awareness and willingness of the public to report CCB across force areas. In the absence of robust regional prevalence estimates of coercive control across different areas, it is difficult to establish how much CCB remains unidentified across different areas.

### **Police recorded outcomes**

At the end of the investigation of an offence, the police assign an outcome. Data on the outcomes of CCB investigations were only available from a subset of forces<sup>23</sup>, and this report therefore focuses on the proportions of outcomes for those forces that provided data, rather than volumes. At the time of writing, 4% of CCB offences recorded in 2019/20 had not yet been assigned an outcome.<sup>24</sup> This section therefore discusses 2018/19 data, which have a smaller proportion of offences with unassigned outcomes and are thus more appropriate for analysis.

As Table 1 illustrates, in 2018/19 fewer than half (47%) of CCB cases were assigned an outcome within 30 days, and nearly a quarter (24%) of CCB cases took more than 100 days to be assigned an outcome. The length of time to assign outcomes is broadly similar to domestic abuse-flagged stalking offences, but considerably longer than domestic abuse-flagged assault cases, which may be more straight forward and less time-consuming to evidence. The length of time that it takes to assign outcomes can make it difficult to accurately compare recent figures to those from previous years or to compare with other offences, where evidence of only a single event of criminal behaviour was required.

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<sup>22</sup> Calculated based on ONS (2020a) and ONS mid-2019 population estimates, excluding Greater Manchester.

<sup>23</sup> This analysis is based on data from 37 forces for 2016/17 to 2018/19, and it is based on 36 forces for 2019/20.

<sup>24</sup> These figures were extracted from a Home Office internal system in January 2021, and the percentage breakdown of police recorded outcomes assigned for 2016/17 to 2019/20 can be found in Annex 2.

**Table 1 – Length of time taken to assign outcomes to CCB and domestic abuse-related offences recorded, 2018/19**

	All controlling or coercive behaviour offences	All domestic abuse-flagged offences	Domestic abuse flagged-stalking offences	Domestic abuse-flagged assault with injury offences	Domestic abuse-flagged assault without injury offences
Same day to 5 days	20%	29%	15%	29%	36%
6 to 30 days	27%	31%	27%	32%	33%
31 to 100 days	29%	25%	30%	26%	22%
More Than 100 Days	24%	15%	28%	14%	10%
Total	100%	100%	100%	100%	100%

**Notes:**

1. Data in this table are based on 37 police forces that supplied adequate data.

Source: Home Office internal database; extracted August 2020

As shown in Table 2, in 2018/19 the proportion of CCB offences leading to a charge/summons<sup>25</sup> was lower (6%)<sup>26</sup> than that for all domestic abuse-related offences (12%).<sup>27</sup> Similar to other domestic abuse-related offences, the vast majority of CCB cases were finalised due to ‘evidential difficulties’ (86% compared with 78% for all domestic abuse-related offences).<sup>28</sup> With the exception of domestic abuse-related stalking, over half of investigations into domestic abuse-related offences were finalised due to evidential difficulties as victims did not support further action. Getting or keeping the victim on board with the investigation can be difficult, particularly in cases of domestic abuse, due to the complexity of the relationship that the victim has with the perpetrator, especially when they want to continue the relationship, have children with them or may be emotionally or financially dependent on them.

<sup>25</sup> A summons may also be referred to as a postal requisition.

<sup>26</sup> Though this proportion was a little higher in 2016/17 (13%) and 2017/18 (11%) when the volumes of CCB offences being recorded were still smaller.

<sup>27</sup> The decision whether a charge is made lies with the CPS. Data on the volumes of police referrals to the CPS in CCB cases were not available. So, it is not possible to ascertain whether the low charge rate is down to a low volume of referrals by police to the CPS, or whether the CPS decided not to make a charging decision in a significant number of referrals.

<sup>28</sup> It is worth noting that there is research (see, for instance, discussion in Wydall and Zerk, 2020: 5) to suggest that sometimes victims’ ‘primary reason for contacting the police and other criminal justice agents is not to pursue a criminal conviction, but to use them as a resource to stop the abuse and provide immediate protection from further harm’. This does not, however, negate the need for robust support to help and enable victims to leave an abusive relationship.

**Table 2 - Percentage breakdown of police recorded outcomes assigned to selected offences in England and Wales in 2018/19<sup>1,2,3</sup>**

Outcome	CCB offences	All domestic abuse-related offences	Domestic abuse-related stalking offences	Domestic abuse-related assault with injury offences	Domestic abuse-related assault without injury offences
Charged/Summoned	6%	12%	17%	16%	7%
Out-of-court (formal and informal) <sup>4</sup>	0%	3%	2%	3%	3%
Evidential difficulties (suspect identified; victim supports action)	35%	24%	33%	23%	20%
Evidential difficulties (victim does not support action) <sup>5</sup>	51%	54%	40%	52%	63%
Investigation complete - no suspect identified	1%	2%	2%	1%	1%
Other <sup>6</sup>	4%	4%	4%	4%	5%
Total offences assigned an outcome	98%	99%	98%	99%	99%
Offences not yet assigned an outcome	2%	1%	2%	1%	1%
Total offences	100%	100%	100%	100%	100%

**Notes:**

1. Police recorded crime data are not designated as National Statistics.
2. Data in this table are based on 37 police forces that supplied adequate data.
3. Percentages based on number of outcomes assigned to offences recorded in the year ending March 2019 divided by number of offences; due to rounding, the percentages reported per category may not always add up to the column totals.
4. Includes caution - adults; caution - youths; Penalty Notices for Disorder; cannabis/khat warnings; and community resolutions.
5. Includes evidential difficulties where the suspect was/was not identified, and the victim does not support further action.
6. "Other" outcomes include taken into consideration; prosecution prevented or not in the public interest; action undertaken by another body/agency; and further investigation to support formal action not in the public interest.

Source: Home Office internal database; extracted January 2021

In 35% of CCB offences in 2018/19, it was concluded that, despite the victim supporting further action being taken, sufficient evidence could not be collected to charge the suspect. This proportion was higher in comparison with that for all domestic abuse-related offences (24%) but similar to that for domestic abuse-related stalking (33%). This is likely to reflect that proving patterns of abusive behaviours, which sometimes requires evidence of less recent instances as well as evidence of non-physical abuse, can be harder (and more time-consuming) than collecting proof of, for instance, a violent incident that the police attended and were able to document<sup>29</sup>. Where physical evidence is more difficult to attain, the case may rely more heavily on evidence provided by the victim, making it very difficult to prosecute without the victim's sustained engagement in the process. This appears to be substantiated by the low charge/summons rate for domestic abuse-related assault *without* injury offences (7%) where almost two thirds of victims do not support further action (63%), when compared to the charge rate for assault *with* injury (16%).

In addition, the requirement for proof of the 'serious effect' that the controlling or coercive behaviours have had on the victim likely creates further difficulties in gathering and providing the necessary evidence for the CCB offence. The proportion of offences being dealt with using out-of-court disposals was lower for CCB than for other domestic abuse-related offences (close to 0% compared with 3% for all domestic abuse-related offences in 2018/19). This is perhaps not surprising, given that out-of-court disposals are predominantly used for low-level offences or first-time offending. Since the definition of CCB requires that the behaviour of the perpetrator has had a

<sup>29</sup> This is discussed in more detail in Chapter 3.

'serious effect' on the victim's ability to feel safe or go about their day to day activities, out-of-court disposals are usually not appropriate in cases of CCB.

## Prosecutions, convictions and sentences

Both the CPS and the MoJ collect data on prosecutions, convictions and sentencing outcomes. CPS data show that the number of CCB offences that reached a first hearing at a magistrates' court has increased year on year. This increase was particularly pronounced in the first years after the introduction of the offence, from 2016/17– the first year in which CCB cases reached this stage of the CJS –to 2017/18, for instance, numbers increased threefold from 309 to 960. The number increased by a further 26% to 1,208 prosecutions in 2019/20 (ONS, 2020a). Again, the small number of cases reaching the court stage in 2016/17 is not surprising considering the non-retrospective nature of the offence,<sup>30</sup> the relatively low charge rate and the time that it takes to investigate cases of CCB. Consequently, the increase in the years that followed also is unsurprising as more offences were recorded, investigated and charged and thus progressed through the CJS.

Data are not available from the CPS on the pre-charge decisions, charges by the CPS or prosecution outcomes broken down by specific offence. The following section, therefore, focuses on data published by the MoJ (2020a),<sup>31</sup> where more detailed breakdowns are available.

### *Volumes and conviction rates*

The volume of prosecutions and convictions for cases where CCB was the principal offence<sup>32</sup> increased between 2016 to 2019, which was likely driven by the increase in police recorded offences that resulted in a charge over this period. As shown in Figure 6, the number of prosecutions where CCB was the principal offence increased threefold from 155 in 2016 to 468 in 2017, but the rate of increase slowed to 25% over the following two years to 584 in 2019.

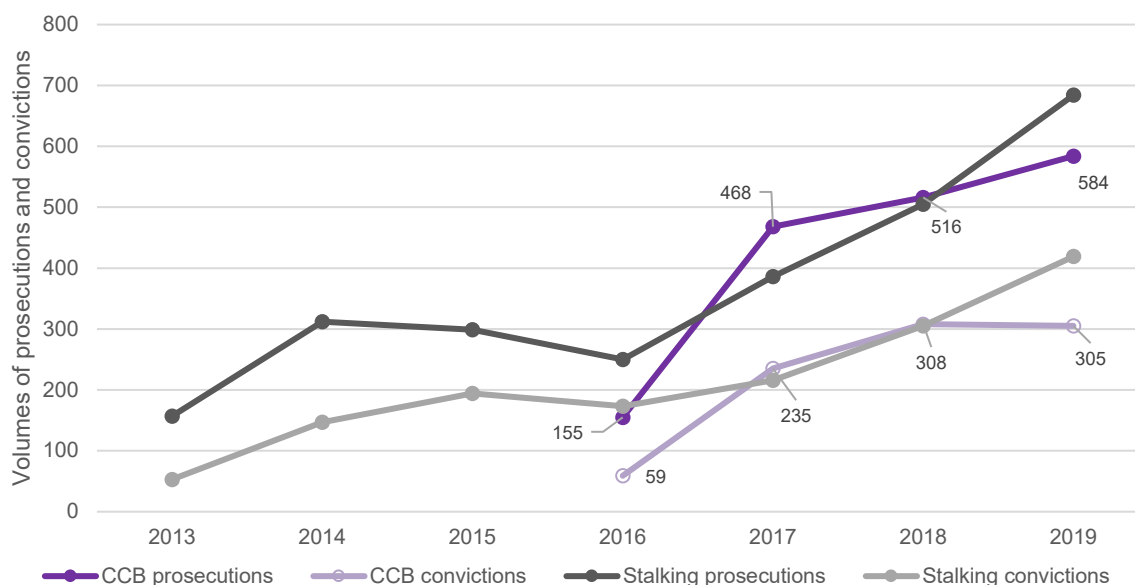
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<sup>30</sup> For more information on this point, please see discussion on p. 17.

<sup>31</sup> Please note that while police recorded offences and CPS figures are provided in financial years (April to March), MoJ data are presented in calendar years and, therefore, cover different periods.

<sup>32</sup> Defendants may be prosecuted for more than one offence. In such cases, the most serious offence with which the defendant is charged at the time of finalisation is referred to as the principal offence, while any further offence is referred to as a non-principal offence

**Figure 6 – Prosecutions and convictions for CCB and stalking as principal offence in England and Wales, 2013 to 2019<sup>1</sup>**



**Notes:**

1. MoJ data are published in calendar years.  
Source: Ministry of Justice (2020a)

A comparison with other domestic abuse-related offences is not available, as it is not currently possible to identify which offences are specifically related to domestic abuse in the prosecution and sentencing data. However, as previously identified, stalking offences may provide a useful comparison to CCB, given their similar nature as a course of conduct offence and their relatively recent introduction<sup>33</sup>. In the first full year after stalking offences were introduced in 2013, there were 157 prosecutions and 53 convictions, very similar to the volumes for CCB in its first year (155 and 59 respectively in 2016). It should be noted that as it is not possible to identify domestic abuse-related cases, these figures will capture some stalking cases that are not related to domestic abuse (such as stranger stalking).

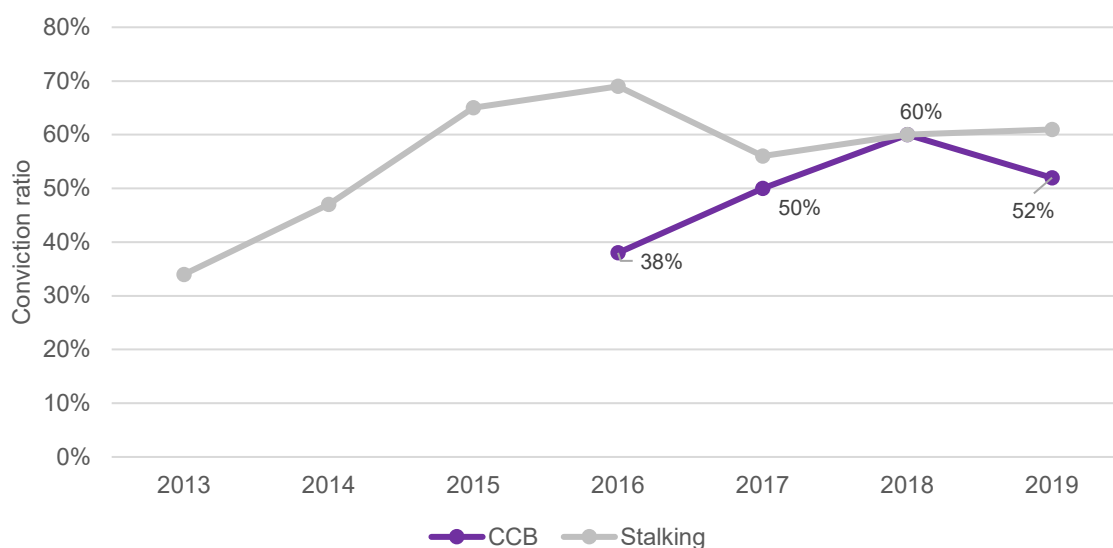
However, the increase in volumes of CCB prosecutions and convictions in its second and third year after coming into effect was steeper than that for stalking offences in the subsequent years after its introduction. While volumes of CCB and stalking prosecutions continued to increase in 2019, the increase was more pronounced for stalking offences, and while convictions for stalking also increased, the number of CCB convictions decreased from 308 to 305.

As shown in Figure 7, the conviction ratio in cases where CCB was the principal offence prosecuted initially increased, from 38% in 2016 to 50% in 2017 and 60% in 2018, but more recently it dropped to 52% in 2019. The conviction ratio for stalking

<sup>33</sup> In this section, which draws on MoJ data, CCB is compared with stalking (code 8Q), as both are ‘triable-either-way’ offences. In virtually all criminal cases, CJS proceedings start in magistrates’ courts and most cases finish there. ‘Indictable only’ offences are initially proceeded against at magistrates’ courts but are committed by them to the Crown Court for trial. ‘Triable-either-way’ cases can be tried at magistrates’ court, but they may also be committed for trial in the Crown Court. In cases that are triable-either-way, the offender may be committed by the magistrates to the Crown Court for sentencing (if a more severe sentence is thought necessary) or the defendant may elect to be tried on indictment at the Crown Court. (For a more detailed explanation please consult: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/886484/criminal-justice-statistics-guide-december-2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/886484/criminal-justice-statistics-guide-december-2019.pdf))

offences broadly followed a similar trend after it was introduced, increasing steadily from 34% in 2013 to 65% in 2015 and has since fluctuated but remains above 55%. The conviction ratio is calculated as the number of convictions in a given year divided by the number of proceedings in a given year. It is therefore affected by the time it takes for court cases to reach the conviction stage – in particular, this would affect the ratio in the first year after introduction as some of the prosecutions recorded in the first year will only reach conviction in the subsequent year.

**Figure 7 – Conviction ratios for prosecutions of CCB offences (2016 to 2019) and stalking offences (2013 to 2019)<sup>1</sup>, where charged as principal offence only**



**Notes:**

1. MoJ data are published in calendar years.

Source: Ministry of Justice (2020a)

The conviction ratio for violence against the person offences was higher than CCB, at 75% in 2019. The lower conviction ratio for CCB (and stalking) prosecutions is again likely due to the inherent difficulties in evidencing complex patterns of abuse, particularly where there are no signs of physical violence.

*Characteristics of convicted defendants*

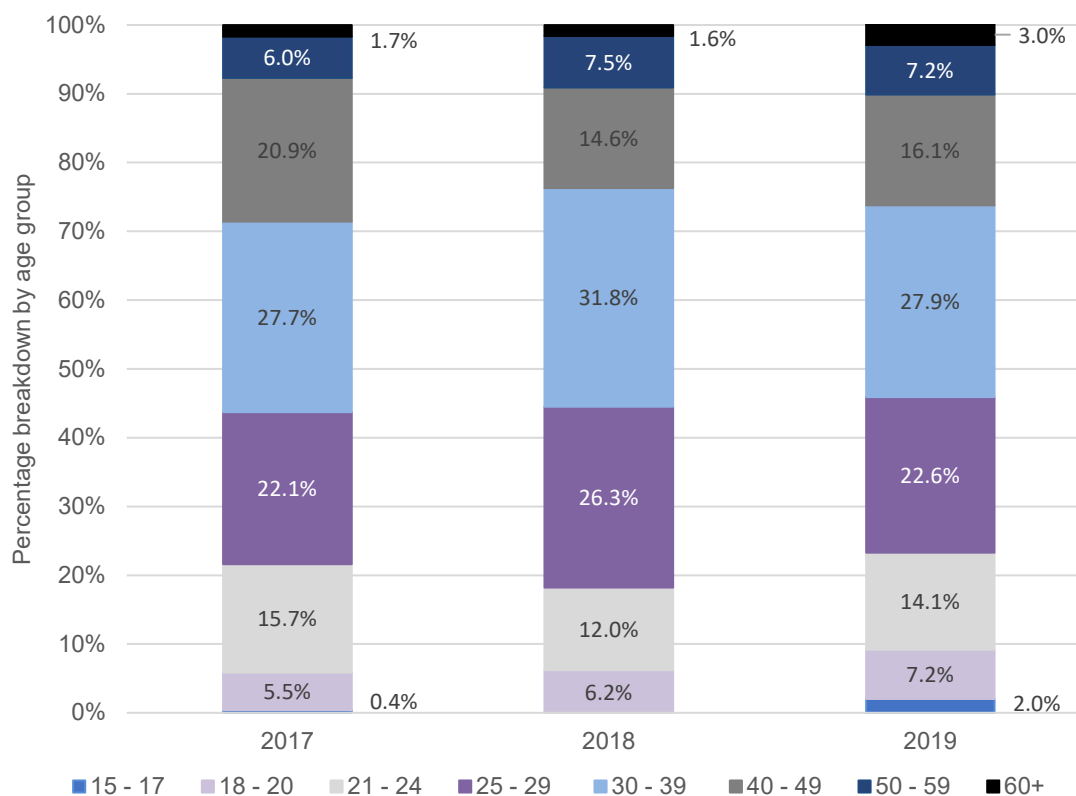
Caution is advised when interpreting data on the characteristics of defendants convicted for CCB, given that the volume of convictions is relatively small. The vast majority of defendants convicted for CCB as the principal offence were male<sup>34</sup>. This was fairly consistent between 2016 and 2019, ranging between 97% and 99% (MoJ, 2020a).

As shown in Figure 8, most of the defendants convicted of CCB from 2017 to 2019 were aged 21 or above (above 90% in all three years), while around 6% or 7% of defendants were aged between 18 and 20. The proportion of juvenile defendants (aged between 10 and 17) prosecuted for CCB was small, making up no more than 2% of defendants in any year. In terms of convictions, 1 juvenile defendant was

<sup>34</sup> As the characteristics of those *prosecuted* for CCB from 2016 to 2018 were similar to those of the characteristics of those *convicted* of this offence, this section focuses on convicted CCB perpetrators.

convicted of CCB in 2017, but in 2019, 6 juvenile defendants (2%) were convicted of CCB.

**Figure 8 – Age breakdown of defendants convicted of CCB as principal offence in England and Wales, 2017 to 2019<sup>1,2,3</sup>**



**Notes:**

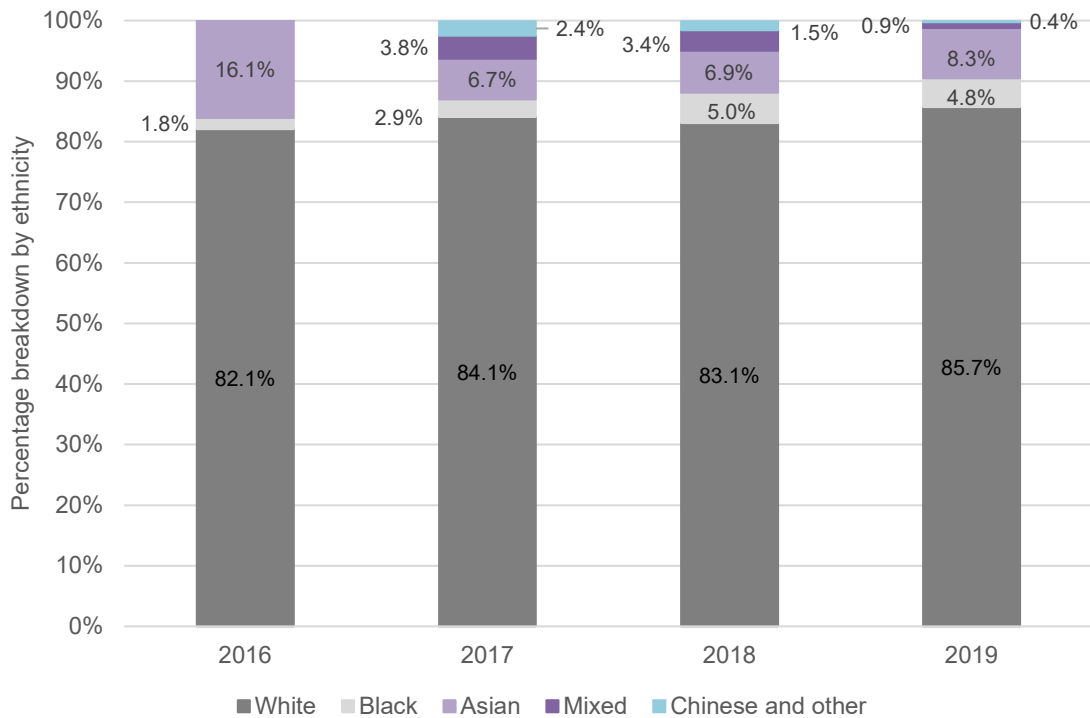
- 1. MoJ data are published in calendar years.
  - 2. This detailed age breakdown was not available for 2016.
  - 3. There were no defendants whose age was recorded as unknown.
- Source: Ministry of Justice (2020a)

As shown in Figure 9, over 80% of defendants convicted of CCB offences each year were White (ranging from 82% in 2016 to 86% in 2019).<sup>35</sup> The proportion of defendants convicted of CCB offences whose ethnicity was Asian decreased from 16% in 2016 to 8% in 2019, while the proportion of defendants convicted of CCB whose ethnicity was Black increased from 2% in 2016 to around 5% in 2018 and 2019 (MoJ, 2020a). However, as the vast majority of defendants in all four years shown were White, percentage changes among Black, Asian and minority ethnic (BAME) defendants are based on very small numbers and caution is advised when interpreting them.

<sup>35</sup> All proportions are based on calculations with the category of 'ethnicity not stated' excluded.



**Figure 9 - Ethnicity breakdown of defendants convicted of CCB as principal offence in England and Wales, 2016 to 2019<sup>1,2</sup>**



**Notes:**

- 1. MoJ data are published in calendar years.
  - 2. All proportions are based on calculations with the category of 'ethnicity not stated' excluded.
- Source: Ministry of Justice (2020a)

**Prosecutions as a non-principal offence**

Defendants may be prosecuted for more than one offence. In such cases, the most serious offence with which the defendant is charged at the time of finalisation is referred to as the principal offence, while any further offence is referred to as a non-principal offence. Experimental statistics<sup>36</sup> are available for 2017 to 2019 on the number of prosecutions and convictions involving CCB as a non-principal offence (MoJ, 2020b).

As shown in Table 3, the volumes of prosecutions for CCB as a non-principal offence were similar to the volumes of prosecutions for CCB as the principal offence in most years for which data are available. The number of total CCB prosecutions increased by 22% from 2017 (when there were 911 prosecutions) to 1,112 prosecutions in 2019.

<sup>36</sup> For an explanation of the various caveats around these experimental statistics, please consult the source, which is available at: <https://www.ons.gov.uk/methodology/methodologytopicsandstatisticalconcepts/guidetoexperimentalstatistics>

**Table 3 – Statistics on numbers of prosecutions for CCB as principal offence and non-principal<sup>1</sup>, 2017 to 2019<sup>2</sup>**

<b>CCB charged as...</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Principal offence	468	516	584
Non-principal offence	443	429	528
<b>Total CCB prosecutions</b>	<b>911</b>	<b>945</b>	<b>1,112</b>

**Notes:**

1. For an explanation of the various caveats around these experimental statistics, please consult the source, which is available at:

<https://www.ons.gov.uk/methodology/methodologytopicsandstatisticalconcepts/guidetoexperimentalstatistics>

2. MoJ data are published in calendar years.

Source: Ministry of Justice (2020b)

Further experimental statistics published by the MoJ explore the combinations of offences for which defendants are prosecuted (MoJ, 2020c). In 2018, half of the defendants who were prosecuted for CCB (either as the principal or non-principal offence) were also prosecuted for common assault and battery (50% in 2018 compared with 43% in 2019).<sup>37</sup> Other offences that defendants were frequently prosecuted for alongside CCB were assault occasioning actual bodily harm (22% in 2018 and 27% in 2019), criminal or malicious damage (17% in 2018 and 18% in 2019) and a number of different sexual offences (for example, rape of a female aged 16 or over – 6% in 2018 and 5% in 2019).<sup>38</sup> This suggests that where there are specific incidents of physical violence, damage or sexual assaults these tend to be charged as a distinct offence alongside CCB, instead of as part of the pattern of controlling or coercive behaviours. These data could indicate that it may be easier to prosecute CCB offences when they are charged alongside other offences that are less difficult to evidence, such as assault or criminal damage.<sup>39</sup> Other explanations could include a preference within the CJS to charge and prosecute offences separately, perhaps to not limit the maximum length of custodial sentences (as CCB has a maximum custodial sentence of five years), or a lack of understanding among the CJS that these other crimes could be charged and prosecuted as part of CCB. There is insufficient evidence to confidently assess what is driving the current practice.

### **Custodial sentences**

As shown in Figure 10, the proportion of immediate custodial sentences given in cases where CCB was the principal offence has increased from 48% in 2016 to 67% in 2019 (MoJ, 2020a), and has remained higher than for other commonly domestic abuse-related offences. The proportion of immediate custodial sentences given in cases of stalking as the principal offence is lower but has also increased since it was introduced, albeit at a slower rate.

Over the same time period, the proportion of immediate custodial sentences given for single incident crimes like assault with injury has followed a similar pattern to those for stalking, increasing from 36% in 2013 to 41% in 2018, but then falling slightly to 39% in 2019. The proportion of immediate custodial sentences where assault without injury

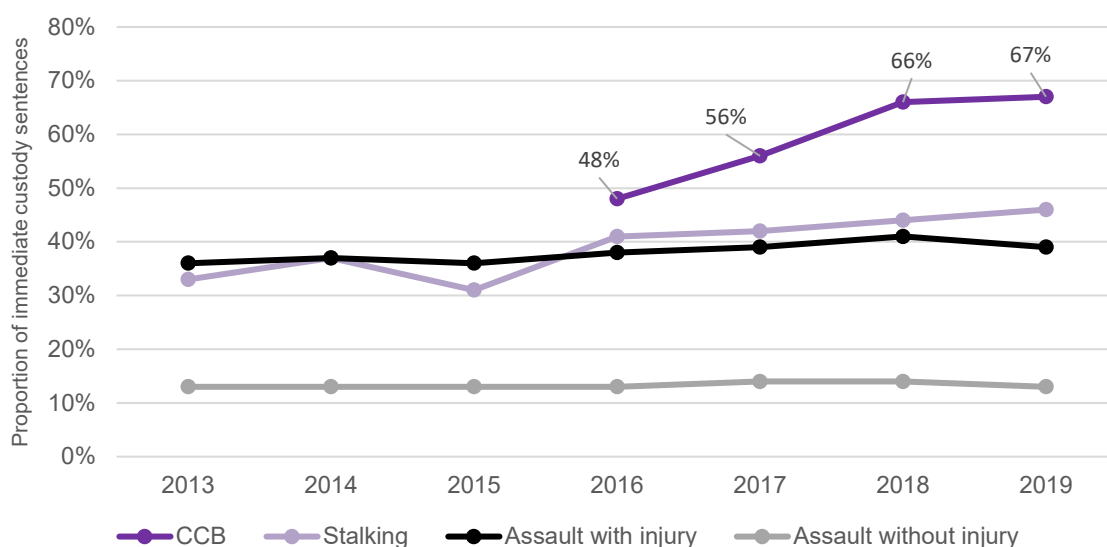
<sup>37</sup> Defendants prosecuted for multiple counts of either or both offences are only counted once.

<sup>38</sup> A defendant may be charged for more than two offences, so these percentages cannot be summed.

<sup>39</sup> Data on the number of prosecutions for CCB as a 'standalone' offence are not available.

was the principal offence has remained considerably lower (around 13%) compared with CCB (between 48% and 67%) across the period (Figure 10).

**Figure 10 – Proportion of immediate custody sentences given for CCB, stalking, assault without injury<sup>1</sup> and assault with injury offences<sup>2</sup> in England and Wales, 2016 to 2019<sup>3</sup>, where charged as principal offences only**



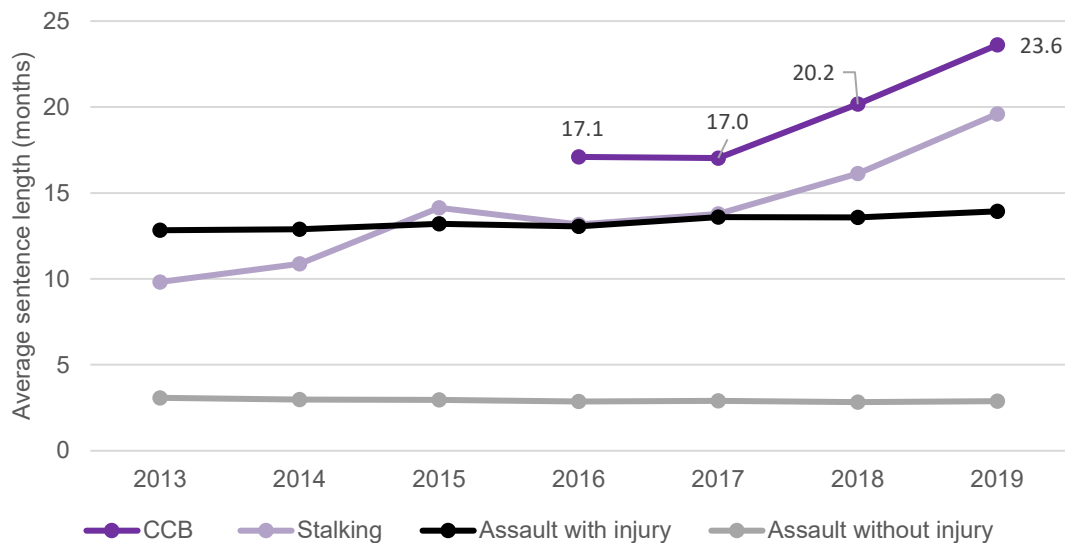
**Notes:**

1. Figures for assault without injury are based on MoJ offence code 105 (Common assault and battery).
  2. Figures for assault with injury are based on MoJ offence codes 8.01 (Assault occasioning actual bodily harm), 8.04 (Other assault with injury – indictable) and 8.05 (Other assault with injury – triable either way).
  3. MoJ data are published in calendar years.
- Source: Ministry of Justice (2020a)

Similarly, despite CCB having a lower maximum sentence length (five years) compared with stalking (ten years since 2017/18)<sup>40</sup>, the average length of custodial sentences has consistently been longer for CCB offences than for stalking, assault without injury, and assault with injury since its introduction (as shown in Figure 11). Both CCB and stalking offences have seen steep increases (39% for CCB, and 42% for stalking) in the average custodial sentence since 2017. In the case of stalking this is likely, at least in part, due to the increase in the maximum sentence for stalking from five to ten years in April 2017. The average sentence length for CCB has consistently been longer than that given in cases of single incident offences, which feature highly among domestic abuse-related offences. For instance, the average sentence length for CCB has consistently been longer compared with assault with injury (which has been relatively steady at around 13 months from 2013 to 2019), and it has been considerably longer than the average sentence length for assault without injury, which has steadily been at around 3 months from 2013 to 2019 (Figure 11).

<sup>40</sup> The maximum custodial sentence for stalking was raised from five years to ten years in 2017/18.

**Figure 11 – Average sentence lengths (in months) for controlling or coercive behaviour offence sentences (2016 to 2019<sup>1</sup>) and stalking<sup>2</sup>, assault with injury<sup>3</sup> and assault without injury<sup>4</sup> offence sentences<sup>5</sup> (2013 to 2019), where charged as principal offences only**



**Notes:**

1. MoJ data are published in calendar years.
  2. Please note that the average sentence length for stalking in 2019 was revised after publication – please consult the ‘known issues’ section of the MoJ’s ‘Outcome by offence 2009 to 2019’ data table for the revised figure of 19.6 months.
  3. Figures for assault with injury are based on MoJ offence codes 8.01 (Assault occasioning actual bodily harm), 8.04 (Other assault with injury – indictable) and 8.05 (Other assault with injury – triable either way).
  4. Figures for assault without injury are based on MoJ offence code 105 (Common assault and battery).
  5. Data are not available on sentence lengths for cases of stalking and assault and battery that are related to domestic abuse specifically but, seeing as in 2018/19, 35% of violence against the person offences and two-thirds of stalking offences were domestic abuse-related, they are a meaningful point of comparison.
- Source: Ministry of Justice (2020a)

The higher proportion of immediate custody and relatively long sentence length for CCB compared with some other commonly domestic abuse-related offences may indicate that the courts recognise the severity and long-lasting harms that result from CCB and that the police and the CPS are becoming more proficient in building strong cases for prosecution. However, it could be that (due to a potentially quite high evidential threshold needed to prove evidence of repeated or ongoing abusive behaviours and their ‘serious effect’ on the victim) only the most serious CCB offences reach court and lead to a conviction. There was some difference in average sentence lengths by defendant demographics like age.<sup>41</sup> In the years for which data are available, the average sentence lengths increased across most age groups. The age group with the longest average sentence length in 2019 were those aged 25 to 29 (25.2 months), followed by those aged 55 to 59 (24.2 months). The latter group showed a considerable increase in average sentence length – from 15 months in 2018 to 24 months in 2019.

<sup>41</sup> The numbers of female defendants were too low to allow a comparison of average sentence lengths by defendants’ sex. Since most defendants were White and a considerable number had to be excluded as ‘ethnicity not stated’, a comparison by ethnicity also would be unreliable.

## 3. Rapid literature review

### Introduction

This chapter outlines the findings of a rapid literature review. This review has sought to focus on the most significant and relevant pieces of research relating to controlling or coercive behaviour (CCB) and the impact of the new CCB offence. This chapter should therefore be seen as an overview of the key literature and does not constitute a systematic review of all available evidence. The specific studies which have been considered in this literature review are listed in Annex 5.

It should be noted that owing to the newness of the CCB offence, the literature in this area is limited and much of the available literature consists of theoretical assessment rather than empirical research.

The rapid review also assessed the evidence on the nature of CCB and the impacts of international legislation around CCB, both of which are presented in Annex 3.

### Summary of key themes

Generally, academics writing on CCB have been positive about the criminalisation of coercive control. Writing several years before the offence came into law, Stark (2012, p 213) stated that: *“reframing domestic violence as coercive control changes everything about how law enforcement responds to partner abuse, from the underlying principles guiding police and legal intervention, including arrest, to how suspects are questioned, evidence is gathered, resources are rationed”*. Similarly, Wiener (2017, p 501) states that the CCB offence *“has the potential to change the way that criminal justice agencies deal with intimate partner abuse for the better”*.

Wiener (p 501) also recognises the long-term benefits of the CCB offence:

*“Further down the line, s. 76 allows the critical notion of coercion into the courtroom and thus encourages survivors to reframe their stories of abuse in a way that more accurately portrays both the wrong of the abuse and the harms that they have experienced as a result. This could, in turn, allow for less attrition in the form of more successful prosecutions, and more appropriate sentencing in intimate partner abuse cases.”*

Stark and Hester (2019) also anticipated that the coercive control offence (and the Scottish Domestic Abuse offence) could help to improve partnership working between the criminal justice system (CJS), the community and the third sector, and strengthen the support they are able to offer victims:

*“Giving justice professionals a robust legal tool could relieve their frustration with ‘failed’ intervention, help shift their attention from victim safety to offender accountability, and so remove an important context for victim-blaming. The new law would also facilitate a corresponding shift among community-based services from ‘safety work’ to ‘empowerment’. Incorporating women’s experiential definitions of abuse into criminal law would also broaden the perceived legitimacy of legal remedies, particularly among groups who lacked access to resources or other alternatives. Conversely, the extent to which the*

*new offense echoes the range of issues advocates/specialists are already addressing creates an important basis for linkage between statutory and voluntary sectors.” (p 85.)*

However, Hamilton (2019) expressed concern that the offence may lead to ‘overcriminalisation’ of social policy, highlighting that it could represent the state interfering in intimate relationships, where power dynamics develop and evolve in different ways.

A number of other issues have been raised about the current legislation and its implementation by the CJS, both within the theoretical literature, and through research conducted since the introduction of CCB. These include:

- challenges for the police in recognising and recording CCB due to its nature as a course of conduct offence rather than an ‘incident’;
- the potential for victims being excluded from seeking justice through CCB legislation due to their relationship and or co-habiting status with the abuser; and
- the challenge in evidencing and prosecuting CCB, where physical evidence is more limited, and victims may be less likely to support prosecution due to the ongoing control they are under.

#### *Difficulty in police recognising and recording CCB*

Barlow *et al.* (2019) argue that the ‘promise’ of the legislation can be seen in the characteristics of crimes labelled as ‘coercive control crimes’ in their research:

*“The coercive control legislation permits the criminalization of [...] certain behaviours which would not previously have been offences prior to its introduction. For example, some 37 per cent of the coercive control crimes examined in our available sample did not include reports of physical violence [...] These findings do point to the potential of the coercive control offence in providing means through which police officers may robustly respond to sustained domestic abuse in instances where they might not have been prompted or able to previously.” (p 174.)*

However, despite this new power, some have argued the offence is not being used to its full potential. Barlow *et al.* (*ibid.*) investigated the translation of the offence into practice in one police force area in England. They conducted a quantitative analysis of the outcomes of coercive control offences, compared with other offences in the police force area that were given a ‘domestic abuse’ flag in the same period. They noted the particularly low number of coercive control crimes recorded by the police force they studied, which they suggest shows that the offence is being both underused and under-recorded by the force. This is further evidenced by their examination of actual bodily harm (ABH) offences, which found missed opportunities for using the CCB offence in almost nine out of ten intimate partner cases.

Across the 46 case files Barlow *et al.* analysed, there was evidence of coercive control identifiable through victim witness statements and previous occurrence records detailing repeat victimisation. Examples of such controlling or coercive behaviours were the “*use of digital surveillance technologies, sustained verbal threats and abuse,*

including so-called 'revenge porn' threats, practices of isolation and deprivation and economic abuse" (p 169). However, these had not been identified as CCB by police officers during investigations. For instance, one case involved a woman reporting that her partner had assaulted her by pushing her over and stamping on her, which was recorded as ABH. The woman is recorded as describing to officers that she also experienced other forms of sustained abuse from her partner involving a range of coercive and controlling behaviours. Barlow *et al.* (*ibid.*) argue that examples such as this suggest that police officers may be missing key opportunities for identifying patterned abuse.

The literature offers a number of explanations for why such opportunities to record CCB may be being missed. Several months before the offence came into force, Brennan *et al.* (2018, p 18) interviewed social workers, police officers and specialist domestic abuse practitioners about their perceived ability and organisational readiness to respond effectively to incidents of CCB. One interviewee remarked, "*I think there is a lack of understanding around the whole coercive control stuff... a lot of [first response officers] just don't get it. They really don't get it. I think they just think, well, there's no visible injury, and there's no ... it's a verbal argument, what's the problem?*"

Brennan *et al.* suggest that this lack of understanding may be further compounded by a lack of definitional clarity around non-physical domestic abuse, which they argue can increase the use of discretion by these frontline services. Similarly, Hamilton (2019, p 212) remarks that because the offence is not 'precisely demarcated', it leaves it "*to the arbitrary discretion of individual police officers, thus yielding potentially unequal and unfair enforcement*". Brennan *et al.* (2018) argue that this level of discretion could increase the discounting of coercive control by pressured frontline officers.

Wiener (2017, p 503) suggests that this lack of clarity may be due to the police historically responding to domestic abuse within the 'violent incident model' outlined by Stark (2012). Based on her interviews with police, she notes that physical violent incidents appear easier for the police to recognise as criminal and therefore to respond to; they are seen as 'black and white', while coercive control, as is seen as 'murky'. This is likely a deep rooted problem, as Hoyle's (1998) research published over 20 years ago found the police response to domestic violence to be "*largely incident-focused and concerned with physical violence and injury; information relating to the history of the case did not affect the decision to arrest in the absence of evidence of harm at the current incident, and physical assaults with injury provided officers with the strongest evidence that an offence had taken place*" (cited in Myhill, 2019, p 55).

This view is prevalent within the literature, with several academics arguing that for the police to fully embrace the use of the coercive control offence a change of mindset is needed, from one focused on specific incidents of physical violence, towards one that looks for more complex patterns of abuse. Medina Ariza *et al.* (2016, p 345) comment that: "*it would appear from on-going research though that the 'narrative' around risk in forces remains largely one of physical violence, and that despite there being scope to do so, many frontline officers do not provide sufficient context when completing risk assessments to illuminate coercive control*".

The notion that physical violence is viewed as higher risk by the police is well demonstrated by Barlow *et al.*'s (2019) analysis, which found that ABH cases flagged

as 'domestic abuse' were 16% more likely than CCB cases to be assessed as high risk and 20% more likely to result in an arrest and be charged. This, they argue, may suggest that police officers were not taking CCB cases as seriously as offences such as ABH.

These examples, which suggest that CCB is viewed as less serious in comparison to physical abuse, highlight that CCB is generally viewed as separate to physical abuse, rather than encompassing it. McGorry and McMahon (2019) examined media reports of 107 cases in which people had been charged with and/or convicted of the CCB offence in England and Wales up to April 2018. Based on these, they argue that there is a need to reconcile an apparent overlap between CCB, and traditional assault and threat offences. They state that while in some cases defendants have been charged with specific offences (like, for example, assault or rape) separate from the offence of CCB, in other cases the physical or sexual violence was considered as part of the behaviours constituting the 'course of conduct' of CCB.

Of the 107 cases reported in the media in which an offender was convicted of CCB, in 47 cases they were also sentenced for physical or sexual violence offences against the victim, which occurred during the period of CCB. McGorry and McMahon (*ibid.*) argue that this illustrates that both clarification and education may be required about the circumstances in which an assault or threat should be charged separately, and the circumstances in which those behaviours should be part of the course of conduct underlying a charge of CCB. They also make the point that if the violence is charged separately, then the prohibition on double punishment would prevent important contextual matters from being taken into account when sentencing the CCB offence, and as such, it may be preferable for all abusive behaviours to be charged as part of the CCB offence.

### Evidencing coercive control

In addition to the challenges faced by the police in recognising CCB and recording it appropriately, evidencing CCB is also cited across the literature as particularly challenging compared with other domestic abuse-related offences.

Freedom of Information requests carried out by McClenaghan and Boutard (2017) revealed what they refer to as 'patchy' implementation of the Section 76 offence nationwide. Out of the 29 police forces that provided data, there was a total of 532 charges during the first year and a half since the introduction of the CCB offence, but 6 forces had brought 5 charges or fewer. They add that the police force contacts they liaised with described charges as "*hard to achieve*" and CCB offending as "*challenging to prove*".

This was further apparent in Barlow *et al.*'s (2019) qualitative analysis of police case files, which highlighted that evidencing coercive control was particularly problematic for police officers:

*"One case involved a woman contacting the police to report an attempted assault on her by her male partner. When the police spoke to the woman, she reported various examples of coercive control, including isolation and economic abuse. Moreover, she was a repeat victim of domestic abuse according to the [police] information management system. This case was recorded as coercive*



*control. However, the ensuing investigation focused on the assault and gathering evidence for this particular ‘incident’ rather than investigating any pattern of abusive behaviour. Officers focused on gathering ‘photographic evidence’ of the assault [...] with many of the woman’s descriptions of coercive control being disregarded as examples of ‘one word against the other’, and thus ‘weak’ or ‘unverifiable’.”*

This suggests that, even where CCB has been recognised and recorded, investigating this offence may not be prioritised due to the difficulty in collecting evidence. This point is supported by Wiener’s (2017) qualitative research with police officers after the CCB offence was introduced, which identified challenges that the police face in taking statements related to coercive control. One participant pointed out:

*“I think the challenge for first responders is you are not asking them to take a statement about an event. So, if it’s an assault, or a criminal damage [case], there’s an event. Whereas obviously with coercive control you are telling a narrative, a story – that’s always going to be much more difficult.”* (Focus group police participant, *ibid.*, p 505.)

Barlow *et al.*’s (2019) study further states that the police failed to capitalise on a range of available evidential opportunities during their investigations. These included officers not fully investigating evidence of coercive control disclosed in victim witness statements, failure to seek third party witness statements (for example from friends, family and professionals), and failing to effectively capture the victim’s initial account or to use body-worn cameras as a source of evidence.

There are some signs that the police are working to mitigate these evidential issues. For example, McClenaghan and Boutard (2017) provide a citation from a detective from the Metropolitan Police Service who explained that officers in London now wore body cameras to help to gather evidence while on call outs:

*“We are determined to pursue those who use such abuse to intimidate their partner and put them before the courts. While these offences can be challenging to prove, we continue to work hard to help ensure our officers are able to gather the best possible evidence to bring perpetrators to justice.”*

Barlow *et al.* (2019) suggest that officers would benefit from additional guidance for conducting coercive control investigations in terms of recognising evidential opportunities available in coercive control cases, as well as recognising and strengthening evidence of coercive control within victim and other third-party statements. They argue that resourcing and training is crucial to improve understanding of the nature and impact of coercive control, not just among the police but at all points of contact within the criminal justice process.

However, Walklate *et al.* (2018) caution that it is unlikely that training alone will be effective in equipping the police to recognise and respond appropriately to coercive control, as they argue that police training generally focuses on procedure rather than the broader social context, which they view as the key barrier to the successful policing of CCB. A recent study by Brennan *et al.* (2021, p 11), evaluating the effectiveness of ‘DA Matters’ training between 2016 to 2018, found that the training “*was followed by a 41% increase in arrests*” for CCB, which “*was an average of three additional arrests*

*per force per month*". However, it is not clear which elements of the training had led to an increase in arrests and this effect on arrest rates appeared to be short-lived, falling again around eight months after training.

Brennan *et al.* (p 11) highlight that the police's willingness to pursue investigations of CCB can be impacted by other practices within the CJS. They suggest that *"if officers perceive there is a low prospect of achieving a charge and conviction for controlling or coercive behaviour, they may quickly lose their initial enthusiasm and revert to pursuing other offences with which they are more familiar"* (see also Tolmie, 2018; Wangmann, 2020). This may support Barlow *et al.*'s (2019) point mentioned above regarding the importance of increasing the understanding of CCB across the whole of the CJS, as intervention at the police level alone may be limited in its long-term efficacy.

More recent literature suggests that some of the evidential difficulties raised above may be exclusive to the English and Welsh CCB offence, due to its requirement to evidence 'serious adverse effect' on the victim (in addition to proving the controlling or coercive behaviour of the perpetrator), which, as Bettinson (2020) points out, creates a high evidential threshold and makes prosecuting without the victim's support impossible. In addition, Wiener (forthcoming) argues that, based on the qualitative research she conducted with judges, it penalises resilience in victims – the more able a victim is to withstand the controlling or coercive tactics of their partner, the lower the chances are that the requirement to prove adverse effect will be met.

Comparing the English and Welsh, Scottish, Irish and Tasmanian approaches, Bettinson (2020, p 205) suggests that the Scottish offence is the most promising model. She explains that the legislation in Scotland covers both current and ex-partners, and it recognises that the victim may not always have to be the target of the threat or violence since *"a victim can be coerced or controlled by behaviours directed at others"*, like their child(ren). As outlined above, the Scottish offence does not require the police and prosecutors to demonstrate the harm that the victim has suffered, placing the focus of the prosecution on the behaviours and state of mind of the defendant. Finally, with a maximum custodial sentence length of 14 years, the Scottish offence has a sentencing range that, Bettinson states, more adequately reflects the range of severity in offending covered by the legislation. The Scottish offence does not, however, cover controlling or coercive abuse by a family member.

### *Prosecution and conviction of CCB offences*

Owing to the relative recency of the introduction of the CCB offence, and the generally low numbers of cases reaching the prosecution stages of the CJS, much of the literature has focused on the police response to CCB. However, the successful implementation of CCB is not down to police practice alone, as the police do not work in isolation from the other parts of the CJS. Barlow *et al.* (2019, p 161) emphasise the wide range of people who are crucial to this process: *"When new offences are created, demands and expectations for the wider criminal justice process, from the frontline police officer, to the prosecutor, to the judge are also created"*.

A number of researchers have identified issues at the prosecution and conviction stages of the process. For example, Barlow *et al.* (2019) found that when cases were submitted to the Crown Prosecution Service (CPS) for prosecution, there were a

number of factors that were often cited as preventing the prosecution of coercive control cases. These factors included further investigation and evidence being required; the case not meeting the required evidential threshold; and/or coercive control being dropped from the charge sheet (with other offences, such as assault, leading to a charge):

*“We [...] observed cases where police officers engaged in a thorough investigation and provided extensive evidence, but no further action was taken by the CPS. Evidence submitted in such cases included diary entries, harassing text messages and detailed victim statements. Cases which did result in a charge for coercive control incorporated evidence such as previous convictions for domestic abuse, admissions of guilt, substantial physical evidence (such as criminal damage or a physical injury), the presence of surveillance technology (e.g. in cars or on mobile phones) and police body-worn camera footage.” (Ibid., p 172.)*

Wiener (2017) points out that the *Criminal Justice Statistics Bulletin*, covering the first 12 months of the offence, recorded 59 convictions for CCB in the 12 months to December 2016. By way of contrast, the annual Crown Prosecution Service (2016) *Violence Against Women and Girls Crime Report* recorded 75,000 successful intimate partner abuse prosecutions over a 12-month period. Wiener comments that although a low prosecution count in the first year of the offence was to be expected, the small number of early successful prosecutions for coercive control, in the context of what is now understood about its ubiquity and its significance, is disappointing.

McGorrery and McMahon (2019) also argue that several legal issues have emerged in the prosecution of CCB offences, primarily related to the appropriateness of the legal text of the offence to the crimes being committed. For instance, they raise the issue of how to preserve the principle of non-retroactivity when criminalising behavioural patterns that may have been manifest for many years. They warn that some courts might be taking into account behaviours that preceded the date on which the offence came into operation, for example, a case in which criminal behaviour was said to have commenced in September 2015. However, the findings of this paper should be treated with caution, as the accuracy of media reports cannot be fully verified.

### *Victim support and testimony*

Bishop and Bettinson (2018) note the difficulties related to obtaining witness testimony in court. Witness testimony is often crucial for building a strong case to prosecute. However, they argue that the long-term psychological and physiological effects of ongoing abuse can affect the perceived reliability and credibility of witnesses. Therefore, they recommend that *“to increase the number of prosecutions for domestic violence offences, including under the CCB offence, acknowledgement of the ongoing trauma often experienced by victims, and the ways in which this may hinder their ability to safely and effectively participate in the criminal justice process, is required”*. They argue that there is a need for creative prosecution methods, such as pre-trial witness interviews, which allow these types of cases to be prosecuted without being solely reliant upon the victim’s oral testimony in court (p 3).

### Concerns about the applicability of CCB for certain relationships.

Concerns about the definition or scope of the offence have also been raised by some academics in relation to using the end of the relationship as the cut-off point where the couple did not or no longer live together. The statutory guidance for the police, in relation to stalking protection orders, notes that stalking behaviours can be a continuation of coercive control when an abusive intimate partner relationship has ended, and/or the perpetrator and the victim are no longer living together (Home Office, 2020b). However, since the CCB offence came into effect, the CPS has recommended that when selecting the appropriate charge, prosecutors should consider the status of the relationship, stating that “[w]here there is an ongoing relationship then the offence of controlling or coercive behaviour should be considered” (Crown Prosecution Service, 2017).

“Separation”, as Tuerkheimer (2013, p 53) argues, “does not occur at a moment in time, nor is it typically the marker of a transformed practice of intimate violence”; see also Monckton Smith, 2019; Wiener, 2020a; Wydall and Zerk, 2020). These researchers explain that in abusive relationships a victim may attempt several times to separate before they (successfully) leave the relationship, meaning that there is a period of time during which the police may struggle to ascertain whether the victim and perpetrator were in a relationship (and CCB legislation applied) or were not in a relationship (and stalking, harassment, or other legislation may be applied instead). Such a situation may likely impede the police’s ability to build a case to charge. Further, Wydall and Zerk (2020, p 5) state that violence often escalates when a perpetrator realises that their partner is attempting to leave the relationship, making this a ‘period of heightened risk’ for the victim.

In addition, Wiener (2020b) points out that not all controlling or coercive behaviours used by an abusive ex-partner fall under stalking or harassment. Based on victims’ accounts, Wiener provides examples such as an ex-partner running “*up bills in the victim’s name, [refusing] to co-operate on the sale of property and [refusing] to pay child maintenance costs*” which, she points out, can have enormous emotional and financial implications for the victim and any shared children. She argues that while these behaviours could be evidence of a continuing pattern of controlling or coercive behaviour, they do not constitute stalking, fraud or harassment under the Protection from Harassment Act, and that as such, the legislation requires extending to ensure that no legislative gaps remain.

### Impacts on victimisation

Some academics have questioned the need for the legislation, and argue that it may, in fact, have negative consequences for victims of CCB. For example, Walklate *et al.* (2018) warn that the prosecution process affords opportunities for unintended consequences and could provide a tool for further abuse by the perpetrator in court. They express a broader scepticism about whether new criminal offences will provide meaningful access to justice for women who have experienced domestic and family violence, and they emphasise the need instead to strengthen civil remedies and support service access and delivery.

Walklate *et al.* argue further, that similar issues are likely to arise as those cited in sexual abuse cases, where the criminal justice system itself compounds the

experience of lack of control inherent in the crime addressed. Hamilton (2019, p 211) expresses concern that the offence may lead to ‘overcriminalisation’ of social policy, as she argues that it fails to identify a close-ended list of discrete and clear harmful behaviours. She also argues that the coercive control offence could exacerbate the probability of arresting those who are in fact victims:

*“The statute itself is so broad and vague that there is a substantial risk that abusers will take to charging their victims with the offence. Regrettably, actions that she takes in a self-protective mode could otherwise be regarded as coercive or controlling behaviours. [...] Perhaps in response to her abuser’s control of finances, the victim starts to secretly save money; this could in turn be conveyed as her controlling finances by hiding assets from him.”* (p 211.)

Similarly, Tolmie (2018) also warns that if it is not successful, the offence could conceivably operate to minimise the criminal justice response to intimate partner violence and be used to charge primary victims. However, Stark (2018) found that at the time of writing only one woman had been charged thus far under Section 76, which may indicate that this issue has not materialised.

### Gender-neutral nature of the CCB offence

Some academics (such as Barlow *et al.*, 2019; Stark and Hester, 2019) believe that the gender-neutral wording of the CCB offence requires revision. They argue that positioning CCB as predominantly a crime committed by men against women may mean that coercive control is identified more easily (Barlow *et al.*, 2019). However, this may risk disadvantaging cases of CCB that are committed against men and in same sex relationships. Whilst advocates of removing gender neutrality point to the approach taken in the Domestic Abuse (Scotland) Act 2018 as a potential model, it is too early to say whether this approach is any more successful than the England and Wales CCB offence in its current form.

### Conclusions

This review of the literature has raised a number of key challenges to the successful use of the CCB offence. There are some arguments presented for a need to change or alter the current legislation of the offence. Firstly, to provide better protection for those who suffer abuse post-separation, and secondly, to remove the requirement to evidence a serious effect on the victim, which, it is argued, contributes to the difficulties experienced by the police and prosecutors in building a case for CCB. However, the successful implementation of the coercive control offence is dependent on more than just legislation. As Burman and Brooks Hay (2018, p 78) note: *“legislative change cannot on its own lead to improvements. Whatever laws we have will be only as effective as those who enforce, prosecute and apply them. Improving these practices – through education, training and embedding best practice and domestic abuse expertise – is likely to be more effective than the creation of new offences alone.”*

Much of the literature regarding the roll-out of CCB focuses on police practice, highlighting that the police may struggle to recognise abuse beyond physical incidents, and face a number of obstacles in investigating an ongoing pattern of, often non-physical, abuse. However, it is important to note that the police do not work in isolation, and both Barlow *et al.* (2019) and Bishop and Bettinson (2018) emphasise that the

responsibility for understanding coercive control extends to other criminal justice agencies, such as the CPS, as well as the police, arguing that they need to share a common understanding of the offence. In the same vein, Tolmie (2018, p 53) believes that: *“If the law is to be successfully applied, shifts will also be required in the collective response of all key criminal justice decision makers, including prosecution lawyers, judges, juries and corrections officers administering sentences.”*

## 4. Stakeholder engagement

### Introduction

As part of this review, in addition to the research, Home Office policy officials consulted a range of stakeholders to get their views on controlling or coercive behaviour (CCB) and how the new offence is being understood and used by practitioners. This was not part of the structured research but did nevertheless provide an illustration of a range of views and valuable insights. Given the relatively small numbers of individuals involved, and the diverse pool of interested parties in this area, the views expressed here should not be considered representative of others.

### Approach

The Home Office domestic abuse policy team engaged individuals from a number of government and non-government organisations working on domestic abuse and on controlling or coercive behaviour in particular. These included:

- the National Police Chiefs' Council (NPCC) and the Association for Police and Crime Commissioners (APCC);
- individuals from five police forces, covering urban and rural forces in England and Wales (given the legislation covers both countries) – Sussex, West Midlands, South Yorkshire, North Yorkshire and South Wales;
- the Crown Prosecution Service (CPS);
- domestic abuse support services;
- academics; and
- a very small number of victims who were willing to share their experiences.

A survey was devised by Home Office policy officials, seeking to gain views on:

- overall awareness and understanding of CBB;
- characteristics of offenders and victims;
- issues in investigating and prosecuting CCB;
- strengths and weaknesses of the legislation;
- level of training received by staff on CCB; and
- whether changes to the legislation were required to provide better protection for victims.

The survey was tailored to the police, prosecutors and domestic abuse support services (Annex 4).

Victims willing to share their experiences were identified by the APCC and were engaged via unstructured telephone interviews.

Due to the low number of responses to the survey received from each stakeholder group, further engagement took place in the form of visits to police forces, discussions at a domestic abuse conference in January 2020 and a detective inspectors' (DIs') meeting in February 2020.

A summary of the engagement mechanisms and the numbers involved is given below.

**Table 4 - Overview of the engagement with stakeholder groups**

Stakeholder		Engagement:
Police	NPCC/APCC	Discussion with 2 domestic abuse leads
	North Yorkshire	Discussion with 2 individuals of various ranks
	South Wales	12 responses to survey (Annex 4)
	South Yorkshire	Discussion with 5 individuals of various ranks
	Sussex	Discussion with 3 DIs, and visit to local MARAC <sup>42</sup>
	West Midlands	Discussion with 4 individuals of various ranks
Prosecutors		<p>The CPS survey was sent to 28 prosecutors who were the regional Violence Against Women and Girls (VAWG) co-ordinators and/ or the Domestic Abuse Best Practice Framework leads who dealt with the courts; 7 CPS prosecutors responded to the survey.</p> <p>Discussion took place with a small number of prosecutors at a practitioners' event in October 2019</p>
Domestic abuse support services		12 domestic abuse support services were sent the survey and 5 organisations responded. There was follow-up engagement with some of these at a practitioners' event in October 2019
Victims		Four victims were identified by the APCC as willing to share their experiences of the CJS handling of their case with the review team, and were engaged with in unstructured telephone interviews
Academics		Four academics, recommended by the Review steering group, were consulted informally through email correspondence, and in some cases in person at the practitioners' event in October 2019

In order to protect the anonymity of respondents, all names and identifying information on individuals or organisations has been removed from this report.

<sup>42</sup> MARAC stands for 'Multi-agency risk assessment conference' and is a meeting attended by representatives of multiple agencies (for example, the police, probation, child protection, and health) where information on high-risk domestic abuse cases is shared.



## Limitations

Due to the small number of those who engaged, across all the stakeholder groups involved, and the less systematic method of gathering information, the views presented here should not be seen as representative of any stakeholder group more widely. Those who engaged were not selected randomly and may have self-selected or been put forward for participation based on their particular experiences and/or views.

No systematic approach or software was used to analyse the qualitative answers of those consulted, and where engagements were informal in nature, and not collected through a survey, responses were not recorded nor transcribed, but hand-written notes of key themes were taken.

It should also be noted that the views of the courts and the judiciary were not collected as part of this exercise, and views from these stakeholders may differ to those consulted.

However, despite their somewhat limited value, the findings from this stakeholder engagement exercise presented here does provide an illustration of the views of some key stakeholders.

## Key findings

Generally, all stakeholder groups that the review team engaged with welcomed the legislation. They felt that its introduction had raised awareness of CCB, and that it has been beneficial in creating the legislative framework to prosecute perpetrators. However, stakeholders raised a number of key common issues which are presented thematically below.

### **1. There is a need for greater awareness of CCB among the public to empower victims to recognise their abuse and report it.**

Feedback from the small number of victims, and from domestic abuse support services, highlighted the need for greater awareness of the offence amongst the general public. Some victims felt that they had not recognised CCB as domestic abuse. There was a view among the victims consulted that a particular incident, such as physical assault, was the main prompt for contacting the police, and that abuse had been happening for a while before initial contact. Where abuse was not physical, in some cases it was years before help was sought.

This was reflected by the views of participants from domestic abuse support services who noted that many of the victims they worked with had been abused for years, in some cases decades, before they reported the abuse or accessed help. They suggested that victims did not initially recognise what was happening to them as a form of abuse or felt that the police would not take it seriously. This was particularly flagged in cases of economic abuse. They highlighted that perpetrators of CCB often made the victim doubt their own thoughts and understanding of what was happening to them. Even where victims contacted the police or another statutory agency following an incident, they still may not report CCB, which domestic abuse support services felt highlights the need for the police to proactively recognise and identify the signs.

Domestic abuse support services suggested that when victims did report to the police it was not always with the aim of seeking a criminal justice outcome, and that the greatest motivations were to stop the abuse, and to protect their children. Some victims described a reluctance towards pursuing criminal charges, for fear of losing their children in family court.

**2. There has been a reluctance to pursue cases of CCB as a standalone offence, without other 'violent' offences to charge alongside.**

There were individuals among all of the stakeholder groups consulted who felt that CCB is often not considered as a standalone offence, and that it is instead charged alongside other offences. Several police respondents noted that CCB is generally charged alongside common assault, actual bodily harm, criminal damage, battery and sexual offences. Prosecutors suggested this focus on other crimes was inevitable due to the reality that CCB only comes to the criminal justice system's (CJS's) attention after an incident, which is then regarded as more serious than CCB. However, domestic abuse support services felt that some police officers were reluctant to label as domestic abuse anything other than physical or sexual violence.

One police respondent stated that they were under the impression that, when the CCB legislation was created, the CPS was working to a policy of prosecuting only the most serious offence for which there was a compelling evidential case, which meant that the offences that were easier to evidence were given priority. Similarly, one academic noted that the police they had interviewed felt that the CPS are reluctant to run with a CCB charge unless there is a physical violence charge to run alongside it.

**3. CCB is often more difficult and time-consuming to investigate and prosecute than an incident of physical or sexual abuse.**

Some police respondents felt that physical assaults are often easier to evidence (physical evidence of injuries, photos, medical statements, etc.), and, as a result, cases of actual bodily harm (ABH) or common assault were frequently charged instead of the CCB offence. One reason given by the consulted police and prosecutors was victim withdrawal. They felt that where victims were still suffering from CCB, they might withdraw out of fear, or because they no longer wanted to pursue a case against the perpetrator due to their ongoing relationship. Similarly, whilst some forces flagged that they had seen small increases in abuse within a family setting, they highlighted that there were often difficulties in getting family members to support investigations, particularly in cases involving parents and their children.

In addition to victim withdrawal, another challenge raised by the police was a lack of corroborating evidence for CCB, particularly when the victim cannot recall specific dates for events. Because of this, investigations into CCB are often more reliant on third-party evidence, for example, statements from family, friends, colleagues, GPs, or on digital evidence, such as from the victim's mobile phone, both of which are time consuming to collect. The police felt that the time taken to investigate also had knock-on effects on the victim's willingness to support the case. Furthermore, some police respondents believed that while the evidential requirement has increased, the number of staff in the police and CPS has fallen, as has the number of specialist domestic abuse courts.

Prosecutors and academics noted that there have been cases of effective prosecutions based on good evidence for CCB, which included evidence from third parties, evidence from banks to show economic abuse, as well as the initial accounts of the CCB collected through body-worn cameras. It was noted that it was best practice for investigators to pursue these broad sources of inquiry to collect the necessary evidence.

Some of the victims consulted also felt there had been a number of failures in the handling of their cases, including failed call backs, frequent changes of staff (and being forced to repeat their experiences over again each time) and a lack of coordination between forces.

**4. Police and prosecutors felt they had a good understanding of CCB; however, there was confusion around when the legislation could be used, depending on the relationship status and/or living situation of the victim and perpetrator.**

The majority of the police officers and prosecutors consulted as part of this review felt that they had a good understanding of how the offence should be used, and how other offences, such as stalking, harassment or common assault could be used to capture offending post-separation. The police also felt that they had a good understanding of the types of behaviour involved in CCB and how these behaviours present themselves.

However, victims expressed concern that the abuse that took place following the end of their relationship was not 'viewed' with the same seriousness by the police as the abuse that occurred during the relationship. In the victims' mind, the abuse often worsened at this stage.

A number of the stakeholders across the groups consulted raised issues with the requirement for the victim and perpetrator to be in an intimate relationship or living together at the time of the offence. Many highlighted the fluid nature of relationships, in which couples break up and reconcile numerous times, with the victim and perpetrator sometimes living separately and sometimes living together.

Around half of the police respondents spoke about the difficulty in determining the point at which a relationship had ended, and therefore which legislation to apply at which point in the course of conduct. Some officers highlighted that it is not uncommon for relationships to end, recommence or remain difficult to define during the course of an investigation. This lack of clarity in the status of relationships can affect whether the CCB offence can be applied. Similarly, situations where perpetrators were related to their victims but did not permanently reside with them, were also raised as challenging cases, where CCB is not strictly applicable.

Prosecutors similarly highlighted that there were different interpretations of when a relationship had ended, which impacted on whether CCB or stalking or harassment legislation should be used. One academic noted that neither stalking nor harassment legislation may be most effective in protecting victims once a relationship has ended, where the behaviour is still closer to coercion or control than stalking or harassment.

Generally, respondents suggested that where CCB was not applicable, stalking or harassment legislation would be used instead. However, around half of the police

consulted felt that stalking or harassment legislation could not capture all types of behaviour commonly associated with CCB, and that such legislation were more appropriate for stranger stalking, for example. Several respondents across stakeholder groups advocated for changing the legislation to include ex-partners who did not live together, to reflect the often-fluid nature of the relationship between the victim and perpetrator.

It was noted, however, that the maximum sentence for stalking was longer than for CCB, at ten years and five years respectively, and it was felt by both the police and prosecutors that this was sometimes a factor in deciding which offence to charge. A number of those consulted suggested that the maximum sentence for CCB should be raised to be in line with the stalking offence. Further, an academic conducting research with judges noted that several of those interviewed felt that the sentence length of CCB did not reflect the severity of the offence in some cases, which can involve multiple types of abuse over a number of years, and therefore in some cases warrants a greater sentence than physical abuse alone.

#### **5. There is a need for more and better training for the police, prosecutors and judges on CCB.**

Despite the general view that awareness and understanding of CCB had improved, individuals across all stakeholder groups suggested that there should be more and better training for the police, prosecutors and judges, with a focus on when CCB legislation should and should not be used, as well as on how to investigate it and evidence it effectively. Of the prosecutors engaged, some described receiving extensive training, while some did not believe they had received any specific training around the offence.

It was felt that the need for training was particularly great among frontline responders. domestic abuse support services felt that frontline police officers are not adequately trained to respond to CCB. They felt that the complex dynamics of coercive control and abuse between victim and perpetrator can be a significant challenge to frontline officers in identifying and pursuing an offence. This was also raised as an issue by investigators, who suggested that first responders may not necessarily have the time or expertise to identify CCB when responding to an urgent 999 call. They stated that someone being subjected to coercive control is unlikely to be deemed 'high risk' by a first responder (either in person or on the phone) without other aggravating factors present. This is often compounded by the fact that those officers who are more knowledgeable in this area often deal exclusively with the high-risk cases that have been identified by first responders. As a result, some victims may not receive the appropriate support from the outset, thus opportunities to intervene early and put preventative measures in place can be missed.

Investigators also felt that officers and prosecutors needed more training so that they could better understand the complexities of controlling or coercive behaviour, to help identify such behaviour earlier in the process and protect victims before further escalation.

## 5. Key findings and research recommendations

### Introduction

This chapter assesses and summarises the evidence discussed in Chapters 2 to 4 against the various research questions. The limitations of the analysis in this report are then identified, followed by a discussion of key research recommendations.

### Key findings

#### **Research Question 1 – Is there an increase in understanding and awareness of CCB across the criminal justice system?**

Quantitative data that specifically measures understanding and awareness of controlling or coercive behaviour (CCB) among organisations in the criminal justice system (CJS) are not available, and there is limited academic evidence that assesses this in a systematic way.

The substantial increase in the number of CCB offences since the offence was introduced may indicate that understanding and recognition of CCB has improved over time. It should be noted that the number of recorded offences flagged by the police as domestic abuse has also been increasing steadily over the same period, with a 63% rise from 2016/17 to 2019/20.<sup>43</sup> The increase in recorded CCB offences may therefore be explained as part of this broader trend.

There is also some qualitative evidence in the literature indicating that an improvement in awareness of CCB, for example by police officers who use body-worn cameras in order to gather better evidence of the offence (McClenaghan and Boutard, 2017). The small number of police and Crown Prosecution Service (CPS) participants in the stakeholder engagement also expressed their view that they had a good understanding of the offence, and that awareness and understanding was improving slowly.

However, based on the limited data available, it appears likely that the number of CCB offences, prosecutions and convictions currently only capture a small fraction of CCB offending behaviour. Some of this may be due to a need to further raise understanding and awareness of CCB across the CJS, in addition to other factors.

There is evidence to support this in the literature. Wiener (2017) found that the police were still struggling to move on from the 'incident focused' mindset, which prevented them from being able to recognise patterns of CCB. Barlow *et al.*'s (2019) research conducted in the first 18 months after the introduction of the CCB offence also found that the offence had been both underused and under-recorded by the police, and that there were many examples where CCB was not correctly identified, or cases that were prosecuted as assault rather than CCB, even when the researchers concluded that there was clear evidence of the latter. Nevertheless, they also found that 37% of the CCB offences recorded by the police did not include any reports of physical violence, suggesting a recognition of the non-physical abuse involved in CCB. Though research into prosecutors' and judges' awareness of CCB is limited, the available research

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<sup>43</sup> Excluding data from Greater Manchester Police

suggests that police action is not isolated, and that awareness-raising and training needs to be consistent across the CJS.

Given that only four years of data are currently available, further data are required to build a better picture of the trends in the recording of CCB and domestic abuse offences.

### **Research Question 2 – Is there an increase in understanding and awareness of CCB among the general public?**

There are no data or academic literature to measure the understanding and awareness of CCB among the general public.

As previously noted, it appears that the new legislation is only capturing a small fraction of all CCB, which may indicate a lack of awareness of CCB among the general public – although further evidence is required in order to investigate this. Likewise, although there has been an increase in the number of recorded CCB offences over time, it is not possible to identify the extent to which this increase has been driven by increased awareness or understanding of CCB among the general public. However, it is important to note that an increase in awareness of CCB would not necessarily lead to an increase in reporting to the police, as not all victims of CCB, or domestic abuse more widely, wish to seek a criminal justice outcome.

Domestic abuse support services engaged through the stakeholder engagement highlighted a continued need for increased awareness among the public, in order to help victims (and their friends and families) to identify their abuse and seek help earlier. They cited examples of victims who did not recognise their experiences as abuse, and only reported to them or to the police following specific, often physical incidents. This emphasises the need to improve awareness of what constitutes abuse and knowledge of where to go for help and support.

### **Research Question 3 – Is the new offence being reported to and recorded by the police?**

The number of CCB offences recorded by the police has increased from 4,246<sup>44</sup> in 2016/17 to 24,856<sup>45</sup> in 2019/20. However, these numbers are still modest compared with the estimated prevalence of CCB which was between 572,000 and 744,000 for adults aged 16 to 59 in 2017/18 (although these estimates are subject to considerable uncertainty), and the number of domestic abuse victims which was estimated at 2.1 million adults aged 16 to 59 in 2019/20.

As mentioned above, a possible lack of awareness and understanding of CCB, both in the CJS and among the general public, are possible factors behind the disparity between the number of recorded offences and the number of estimated victims. There are likely to be other important factors, such as victims being unwilling or unable to report CCB. However, these hypotheses require further investigation, for example, through systematic qualitative research.

While, on average, there were 44 CCB offences recorded per 100,000 population in England and Wales in 2019/20, there was considerable variation in the rate of CCB

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<sup>44</sup> For 2016/17, the total is based on data from 38 of the 43 territorial police forces for which data were available.

<sup>45</sup> For 2019/20, the total is based on data from 42 of the 43 territorial police forces for which data were available.

offences recorded across police force areas, ranging from 16 (Metropolitan Police) to 197 offences (Lincolnshire Police) per 100,000 population. The reasons for this variation are not known, but may include differences in recording practices, prevalence, and willingness to report CCB across police force areas, as well as geographic and demographic factors. The wideness of the variation across police forces may indicate that the new offence is still 'bedding in', and more data need to be gathered in order to monitor the long-term trend in recorded offences.

#### **Research Question 4 – Are CCB offenders being charged, prosecuted and convicted?**

Police data suggest that only a small proportion of recorded CCB offences result in a charging decision being made by the CPS,<sup>46</sup> perhaps highlighting the potential difficulty in building a strong evidence case for CCB offences. Further, the charge rate for CCB is lower compared with that for domestic abuse related offences more generally (in 2018/19, 6% for the former compared with 12% for the latter).<sup>47</sup> To some extent, this is to be expected in cases of CCB given the need to gather evidence relating to ongoing or repeated patterns of abuse (where physical injuries may not be present) and the requirement to prove the 'serious effect' that these had on the victim.

However, it should be noted that the charge rate for domestic abuse-related stalking was more than double that of CCB (17% compared with 6% in 2018/19)<sup>48</sup>, despite also being a course of conduct offence. The lower charge rate for CCB may be partly explained by the relatively short period since the introduction of the offence. However, it could also reflect the challenges in gathering robust evidence of a 'serious effect' on victims, or of ongoing abuse, particularly where the victim is still in an intimate relationship with the alleged abuser.

Research by Tuerkheimer (2013), Monckton Smith (2019) and Wiener (2020a; 2020b) appears to support the stakeholder views around the difficulty in applying CCB successfully when:

- the relationship status of the perpetrator and victim is uncertain;
- the relationship status changes during an investigation; and
- whether stalking or harassment legislation can adequately cover the behaviours taking place.

However, it should be reiterated that the number of stakeholders engaged was very small and therefore these views cannot be considered generalisable.

Around half of CCB offences recorded by the police did not progress through the system due to 'evidential difficulties' with the victim not supporting further action (51% in 2018/19), a similar proportion to domestic abuse-related offences more widely (54% in 2018/19). This indicates that there is scope to put further measures in place to support victims through the CJS process.

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<sup>46</sup> The decision whether a charge is made lies with the CPS. Data on the volumes of police referrals to the CPS in CCB cases were not available. So, it is not possible to ascertain to what extent the low charge rate is down to a low volume of referrals by the police to the CPS or whether the CPS decided not to make a charging decision in a significant number of referrals.

<sup>47</sup> Though this difference was less pronounced in previous years (for example, as shown in Annex 2, in 2017/18 the charge rate for CCB offences was 11% compared with 15% for all domestic abuse-related offences).

<sup>48</sup> Although this difference was not quite as stark in previous years (for example, as shown in Annex 2, in 2017/18 the charge rate for CCB was 11% compared with 22% for domestic abuse-related stalking offences).

Police data also suggest that CCB cases take longer to be resolved than domestic abuse-related cases more generally, with 53% in 2018/19 taking over 30 days for an outcome to be assigned (compared with 40% for all domestic abuse-related cases in the same period). This is a further indication that CCB cases can require complex investigations and may therefore take longer to progress through the CJS.

The number of prosecutions for CCB have increased over time, which reflects the increased number of offences being recorded by the police and charging decisions being made by the CPS. The number of convictions in CCB prosecutions (where it was the principal offence) increased over the first few years to 2018 (from 59 in 2016 to 308 in 2018), but then stagnated in the following year (with 305 convictions in 2019). While the conviction ratio rose steadily from 38% in 2016 to 60% 2018, indicating that the CJS may be increasing their proficiency in evidencing and prosecuting these cases, it has since dropped to 52% in 2019. In addition, the conviction ratio for CCB remains lower than that for violence against the person offences, but this is perhaps not surprising given the complexities of investigating and evidencing CCB, a theme that was prevalent in the literature.

Experimental statistics show that CCB offences were often prosecuted alongside violent offences, which raises questions around the effectiveness of the offence where abusive behaviours consist of non-physical abuse. This is an area requiring further investigation, considering that the Crime Survey for England and Wales data indicate that non-physical abuse is the most often reported type of domestic abuse.

In terms of convictions, the data show that on average, CCB convictions (where prosecuted as the principal offence) resulted in longer custodial sentences than other offences which are highly prevalent in domestic abuse, such as stalking and assault with or without injury. This suggests that where CCB can be robustly evidenced, the offence is an effective tool to bring perpetrators to justice. It may also suggest that, perhaps due to a higher evidential threshold to prove 'serious effect' on the victim, only the most severe cases of CCB result in a conviction. In a similar vein, the academic evidence suggests that there were missed opportunities, with Barlow et al. (2019) identifying CCB cases which were not taken forward by the CPS, despite being provided with 'extensive evidence'.

### **Research Question 5 – Has there been an increase in the number of offenders being brought to justice, and the severity of punishments?**

The severity of punishment (measured by the average length of the custodial sentence and by the proportion of convictions resulting in immediate custody) for CCB has been increasing since the introduction of the offence. It is not clear that the introduction of the CCB offence has led to a significant increase in the total number of offenders being 'brought to justice', as a large proportion of CCB defendants are charged alongside other offences such as violence (which they may have been charged with in the absence of the CCB offences).

However, it does appear that the CCB offence has led to an increase in the severity of punishment for these offenders, with longer sentences for CCB than single assault convictions and stalking cases (despite the higher maximum sentence for stalking since April 2017). This suggests that where the police and the CPS can build a strong case against a defendant charged with CCB, the perpetrator on average receives a longer sentence than for other offences related to domestic abuse. These findings may



suggest that the courts are recognising the severity of CCB, or (as mentioned above) it may alternatively indicate that only the most severe cases of CCB currently result in a conviction.

### **Research Question 6 – Are there improvements in outcomes for victims of CCB?**

There is no direct evidence that measures the changes in victim outcomes. However, the greater severity of punishment identified in the previous section could be considered as providing better outcomes for some victims. The relatively high proportion of custodial sentences and longer average sentence length in CCB convictions (compared with other offences commonly flagged as domestic abuse) may suggest that where a conviction can be secured, the victim has a more substantial period of respite allowing them to rebuild their life.

However, in light of the low charge rate, and the issues identified within the literature regarding the implementation of the CCB offence across the CJS, it is likely that there is room to further improve outcomes for victims. In particular, when compared with domestic abuse offences more generally, CCB offences tend to take longer to investigate and are more likely to be finalised with evidential difficulties. This reflects the complexities inherent in investigating and evidencing CCB and domestic abuse more broadly, but it may also indicate the need for further support for the victims, or the need to pursue non-CJS outcomes for victims.

The small number of victims consulted in the stakeholder engagement felt that the introduction of the CCB legislation had been positive in recognising this type of abuse. However, they also noted failures they had perceived in the handling of their cases. There is a need for further research and better data on the outcomes for victims of CCB, in order to address this research question more comprehensively.

### **Research Question 7 – Is there a reduction in the prevalence of CCB?**

As identified in the logic model (Figure 1), the expected reduction in the prevalence of CCB is a long-term outcome, which would not be expected to occur within the first few years of the introduction of the offence, particularly noting the estimated high level of under-reporting for CCB. There are currently difficulties in robustly estimating the prevalence of CCB and further work should be taken forward to address this, building on the work undertaken by the Office for National Statistics in 2017/18 (ONS, 2019b).

### **Limitations of this review**

Since the CCB offence has only been in effect for around five years at the time of writing, only around four years of data were available for analysis to support this review, and there is limited research literature examining the impacts of the offence. As a result, it is not yet possible to draw definitive conclusions regarding the impacts following the creation of the offence.

There are limited data in relation to CCB as well as to domestic abuse-related offences more widely. For instance, without detailed case file information it is not currently possible to distinguish between CCB offences related to partner and family members, or to understand the dynamics of how cases have progressed (or reasons why they may not progress) through the CJS.

There is currently a lack of robust data on CCB prevalence, making it difficult to measure how effective the offence has been at capturing CCB offending. There is no common statistical definition of CCB used across survey data, administrative data collected by third-sector organisations and research data, making it difficult to compare prevalence and characteristics of CCB across different sources.

In addition, there is a lack of systematic data available across the CJS on the characteristics and nature of CCB offences and victim outcomes, which has prevented a more detailed analysis of how criminal justice outcomes may differ by the type of abuse or victim/perpetrator characteristics. For instance, apart from a victim's sex, much of the information on characteristics of victims and perpetrators is not currently mandatory for police forces to supply to the Home Office. This makes it difficult to provide more granular analysis of these recorded offences at a national level.

There is also a lack of data to measure awareness and understanding of CCB among the general public or across the CJS, including the effectiveness of training related to CCB.

### **Research recommendations**

1. Building on the previous work of the ONS in 2017/18, robust estimates of the prevalence and characteristics of CCB should be developed.
2. Work should be undertaken, in consultation with victims of CCB and with domestic abuse support services, to develop suitable measures on victim outcomes, with a view to monitoring outcomes for victims of CCB going forward.
3. The evidence collected suggests that while there have been improvements in the awareness and understanding of CCB legislation, due to the newness of the offence there may remain some confusion about when and how CCB should be investigated and charged. Further, there is evidence to suggest that investigating and building a case can be more time-consuming and complex than for other offences. It is therefore recommended that further research be undertaken across the CJS to assess the current levels of awareness and understanding of the legislation, and its application in practice, in order to identify any required changes to the available guidance and training.
4. The literature review along with the stakeholder engagement exercise provided some (limited) evidence pointing towards potential areas for legislative change. The most prominent among these is the suggestion that the legislation should be extended to encompass former partners who do not live together, due to a perception that some post-separation abuse is being missed, and that there may be confusion among the police and prosecutors regarding how abuse that continues beyond the end of a relationship should be recorded and charged. Some academics and stakeholders expressed the view that the current stalking and harassment offences are not applicable or appropriate in all cases of post-separation abuse.
5. In addition, some academics and stakeholders argued that the maximum sentence length for CCB should be increased from five to ten years in line with the current

maximum sentence for stalking, based on the potential severity of CCB which may include both physical and non-physical violence over an extended period.

6. The review also found evidence of challenges in evidencing CCB. Among other explanations, some of the literature linked this to the perceived high evidential threshold of proving a 'serious effect' on the victim, and the practical difficulties in collecting such evidence. As such it has been suggested within the literature that this element of the legislation could be revised, in line with the Domestic Abuse (Scotland) Act 2018.
7. It must be highlighted, however, that due to the relative recency of the offence, the evidence in this area remains limited and the potential impacts of any such changes are not well evidenced. This review therefore puts forward the following recommendations.
  - i. If legislative changes are implemented, the operation of the legislation should be monitored and reviewed to assess the impact of such changes and identify any unintended consequences.
  - ii. If legislative changes are not made at this time, further research should be undertaken to ascertain the need for, and impact of, such changes to the legislation. This should consider both the impacts on victims and on the CJS.

## Annex 1: Additional evidence on the prevalence and characteristics of CCB

Chapter 2 of the report outlines the efforts that have been made to estimate the prevalence of controlling or coercive behaviour (CCB) in the Crime Survey for England and Wales (CSEW). The first half of this annex discusses other attempts in the research literature to estimate the prevalence of CCB in the UK and internationally. The second half of this annex then presents data on CCB-related behaviours that have been provided by non-government organisations that work with victims and/or perpetrators of domestic abuse.

### Research into the prevalence of CCB

#### *Estimates of the prevalence of CCB in England and Wales*

Myhill (2015) used secondary analysis of 2008/09 CSEW data in order to create an alternative estimate of the prevalence of coercive control. Respondents were characterised as having experienced coercive control if they said their partner had both “repeatedly belittled you to the extent that you felt worthless” and “frightened you, by threatening to hurt you or someone close to you”, in the ‘Domestic abuse, sexual victimisation and stalking’ module of the survey. These questions were deemed to reflect abuse that was ongoing, denigrating, perceived as threatening, and had caused a degree of fear. All other respondents who reported suffering physical violence or acts of emotional or psychological abuse were classified as having experienced situational violence.

This analysis involved 3,544 respondents who had experienced no more than one abusive relationship since the age of 16. Of these, 6% of men and just under 1 in 3 women (30%) who reported some form of domestic violence or abuse (DVA) were found to experience what Myhill termed “coercive controlling violence”. The study found that coercive control involved more severe and more frequent physical violence, and that it was more likely to persist over time than situational violence. The analysis also showed that coercive control was more likely to have a negative economic impact on the victim than situational violence, and that the abuse was more likely to continue after the end of the relationship.

Hester *et al.* (2017) investigated the prevalence of coercive control among male victims. In a survey of 1,368 male patients in 17 GP surgeries in England, 51% reported experiencing potentially harmful behaviours<sup>49</sup> compared with 15% for physical behaviours and 7% for sexual behaviours. In comparison, 4% reported experiencing coercive controlling violence (defined as those who reported experiencing both high levels of abuse and high impact), and of those nearly half (49%) also reported perpetration against their partner. The authors acknowledge that studies using clinical samples, such as in their research, generally show a higher degree of domestic and violent abuse than the general population.

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<sup>49</sup> The definition of potentially harmful emotional behaviours was very broad, including behaviours such as, “been jealous or accused you of cheating”, “drink driving while you are in the car” and “driven too fast while you are in the car”.

### *International estimates of the prevalence of CCB*

Large-scale surveys of intimate personal violence (IPV) have been undertaken in the USA since the late 1970s and in Canada since the late 1980s, but as in England and Wales there are difficulties in robustly estimating the prevalence of CCB. International attempts to capture coercive control using surveys and other data sources are summarised below. In the USA, Anderson (2008) found that 3% of the women responding to the National Violence against Women Survey (NVAWS) reported experiencing high levels of control, but no violence.

Research by Bates *et al.* (2014) found that there were no substantial sex differences in controlling behaviour, which significantly predicted physical aggression in both sexes. In their survey, participants were asked to rate how frequently they perpetrated and experienced a list of 24 controlling acts during their relationship, on a five-point Likert scale, from 0 (never did this) to 4 (always did this). The results of the survey showed that women reported perpetrating significantly more controlling behaviour overall than men did (mean frequency of 11.11 for women compared with 8.82 for men) and that men and women reported that their partners used controlling behaviour at a similar rate (11.74 and 12.90, respectively).

However, their survey used a student sample of 1,104 from a single university in the USA, and nearly two-thirds of the respondents were women. So, it focused on a specific location and age range, and used an unrepresentative gender mix, making the study unrepresentative of the wider population. In the survey the respondents reported on their own use of physical aggression and controlling behaviour to partners and to same-sex non-intimates. Thus, the answers could have been subject to social desirability bias, which could also explain the difference to results found in victim-based surveys.

In a different study drawing on survey data from the 1999 Canadian General Social Survey, Bates and Graham-Kevan (2016) argue that their analysis showed that there were no sex differences in the use of controlling behaviour or physical aggression. The survey included eight items to measure control such as 'he/she tries to limit contact with your family and friends' and 'he/she demands to know who you are with and where you are at all times'. The analysis showed that 6% of the sample (1,540 people) answered yes to being financially or emotionally abused in the last 5 years. Their initial analysis of sex differences in victimisation showed no significant differences for overall control, and that men and women had experienced similar levels of victimisation over the past five years.

An analysis of the 2014 Canadian General Social Survey by Burczycka (2014) found that 14% of respondents reported having been emotionally or financially abused by a current or former spouse or common-law partner at some point during their lifetime. Men were slightly more likely than women to report emotional or financial abuse (15% compared with 13% respectively). The survey also found that 16% of spousal violence victims reported 3 or more of the long-term psychological effects associated with post-traumatic stress disorder, with a higher rate among female (22%) than male (9%) victims. The survey also presented figures for abuse in 'dating relationships', as opposed to abuse in spousal relationships. The most common type of abuse in dating relationships was limiting the victim's contact with family or friends, name calling, or threats, which was reported by 7% of individuals who had dated during the past 5

years. Again, women were more likely than men to report this kind of abuse (8% compared with 6% respectively).

Johnson *et al.* (2014) conducted analysis of the USA's NVAWS using data on past, rather than current, intimate relationships, with the rationale that victims and perpetrators are less likely to report domestic violence and abuse in current relationships than those that have ended. They constructed a 'Coercive Control Scale' from a subset of nine survey questions that dealt with non-violent control tactics used by the respondent's partner. Using cluster analysis indicated there were two types of domestic abuse behaviour: high control, which the authors equated with coercive controlling violence, and low control, which they equated with situational couple violence. The results showed that 22% of women reported experiencing coercive controlling violence by their ex-husbands, while 5% of men reported experiencing coercive controlling violence by their ex-wives.

In another US-based study, Beck and Raghavan (2010) conducted research involving 1,930 persons (965 couples) in Arizona who had separated for an average of 6 months and were court ordered to attend divorce mediation to resolve custody. A majority of the women in the sample reported experiencing violence or coercive control (defined as a motivating factor for psychological abuse, sexual assault, intimidation and coercion, physical abuse, and threats of and escalated physical violence) in the previous 12 months, with 25% reporting coercive control 'a lot' or 'all the time' and 10% reporting 'moderate' or 'high' physical abuse. They found that the presence and nature of coercive control in a relationship, regardless of whether physical abuse was involved, predicted both a victim's perceived and actual risk of violence, including both her level of fear and associated psychosocial, medical and behavioural problems. Around 80% of the women who reported physically forced sex, escalating violence or threats to their life after separation also reported moderate to high coercive control during the marriage, but little or no physical violence.

### Data from non-government organisations

A number of non-government organisations that work with victims and/or perpetrators of domestic abuse have provided their administrative data on CCB-related behaviours, for the purpose of this report. The data in this section come from responses to a survey of seven third-sector organisations that formed part of the stakeholder engagement in this review. The organisations were asked how many cases involving CCB they have been involved with over the last 12 months, and what were the demographics and (protected) characteristics of the victims and perpetrators. Where necessary, analysts followed up the survey responses with additional questions.

It should be noted that most of these data capture behaviour such as emotional or psychological abuse, rather than capturing the Government definition of CCB<sup>50</sup> specifically.

### *Evidence on the proportion of domestic-abuse victims/survivors experiencing CCB*

Citizens Advice started a national programme of work in 2014 in England and Wales, called ASK. Its aims are to train and support advisers and supervisors in local Citizens

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<sup>50</sup> The Government definition of CCB as set out in the statutory guidance (Home Office, 2015b) can be found on p 8 of this report.

Advice offices to identify family or intimate partner abuse by asking those receiving face-to-face advice in a confidential setting (mainly in debt, benefits, housing and family enquiries), about whether the client has been hurt or frightened by their partner or a family member. They then support the client with information and options if they disclose.

Although Citizens Advice do not specifically capture data on CCB, they do collect data on 'emotional or psychological abuse'. This was the most commonly reported type of abuse in 2018/19, although Citizens Advice point out that many of these clients report physical and economic abuse as well. In 2018/19, 12,282 clients were recorded<sup>51</sup> as having an enquiry about domestic or gender-based abuse and of those, 63% of female clients and 58% of male clients in heterosexual relationships reported emotional or psychological abuse by their partner or ex-partner. Among the clients in same-sex relationships, 51% reported emotional or psychological abuse. The proportion of those reporting emotional or psychological abuse by another family member was also 51%.

Women's Aid found that 94% of 10,727 female survivors supported by local domestic abuse services in England in 2017/18 had experienced types of coercive control, such as demeaning and degrading behaviour and 'gaslighting'.<sup>52</sup> The source of these data was 'On Track', the Women's Aid's case management and outcomes monitoring database and relates to cases that had information about abuse recorded and were closed during this period. However, it must be noted that On Track records different types of behaviour rather than one specific definition of 'coercive control'. Similarly, a study covering a 3-year period (2011 to 2014) co-authored by Woman's Aid found that 95 out of 100 domestic abuse survivors using a specialist domestic abuse service reported experiencing coercive control (Kelly *et al.*, 2014).

SafeLives, the UK-wide charity dedicated to ending domestic abuse, collects data on clients supported by Independent Domestic Violence Advisors (IDVAs) and outreach workers. Its database shows that in 2018/19, 79% of IDVA clients (2,887) and 67% of outreach clients (1,228) reported that they had experienced jealous and controlling behaviour by either their partner or ex-partner. Furthermore, 45% of IDVA clients and 14% of outreach clients reported high-severity jealous and controlling behaviours by their partner or ex-partner. Between April 2015 and March 2018, over three-quarters of all IDVA clients (9,024 in total) experiencing jealous and controlling behaviours had called the police at least once.

The Drive programme works with high-harm perpetrators of domestic abuse and is delivered by SafeLives in partnership with Respect and Social Finance. Their data show that in 2018/19, 34% (2,178) of victims of Drive clients had suffered from their partner's jealous, controlling or coercive behaviours within 3 months prior to referral or during Drive's intervention. Around 76% of these victims were aged between 21 and 49, and in over two-thirds (71%) of cases the victim and perpetrator had at least one child together.

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<sup>51</sup> Citizens Advice notes that the total number of clients disclosing domestic abuse or gender-based abuse during the year is likely to be higher than this figure, as many clients disclose but do not wish to receive advice or information at that stage on the disclosure, or it is not the main presenting issue.

<sup>52</sup> 'Gaslighting' is a term used to describe a type of psychological manipulation whereby someone seeks to make another person question their own perception, memory and/or sanity.

### *Evidence on the characteristics of the perpetrators of CCB*

SafeLives also provided Drive data on the 658 perpetrators<sup>53</sup> of jealous, controlling or coercive behaviour who they worked with in 2018/19. Around 95% of Drive clients who perpetrated jealous, controlling or coercive behaviours were male, 3% were female and the gender of the remaining 2% was unknown.

As with the victims captured in the Drive dataset, the overwhelming majority (84%) of perpetrators of jealous, controlling or coercive behaviours were aged between 21 and 49. On average, perpetrators in this dataset were older than their victims. While 9% of victims were younger than 21, only 3% of perpetrators were, and 10% of perpetrators were aged 50 and above compared with 8% of victims. Around 62% of perpetrators of jealous, controlling or coercive behaviour had a current criminal order in place or had previously been charged for domestic abuse, while mental health needs had been identified for 38% of these clients.

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<sup>53</sup> This group of Drive clients were identified through the 'Multi-agency risk assessment conference' (MARAC) system – i.e. they were 'known to services'.



## Annex 2: Additional quantitative criminal justice system data on CCB offences

**Table 5 – Percentage breakdown of police recorded outcomes assigned to selected offences in England and Wales, 2016/17, 2017/18, 2018/19 and 2019/20**

**2016/17<sup>1,2,3</sup>**

Outcome codes	Outcome	Controlling or coercive behaviour offences	All domestic abuse-related offences	Domestic abuse-related stalking offences	Domestic abuse-related assault with injury offences	Domestic abuse-related assault without injury offences
1	Charged/Summoned	13	19	25	24	12
2, 3, 6, 7, 8	Out-of-court (formal and informal) <sup>4</sup>	1	6	3	7	6
15	Evidential difficulties (suspect identified; victim supports action)	34	25	32	24	22
14, 16	Evidential difficulties (victim does not support action) <sup>5</sup>	45	43	35	41	53
18	Investigation complete - no suspect identified	1	2	1	1	2
4, 5, 9, 10, 11, 12, 13, 17, 20, 21	Other <sup>6</sup>	6	4	4	3	5
Total offences assigned an outcome (type 1-18, 20, 21)		99	99	99	99	99
Offences not yet assigned an outcome		1	1	1	1	1
Total offences		100	100	100	100	100

**2017/18<sup>1,2,3</sup>**

Outcome codes	Outcome	Controlling or coercive behaviour offences	All domestic abuse-related offences	Domestic abuse-related stalking offences	Domestic abuse-related assault with injury offences	Domestic abuse-related assault without injury offences
1	Charged/Summoned	11	16	22	21	9
2, 3, 6, 7, 8	Out-of-court (formal and informal) <sup>4</sup>	1	4	4	5	4
15	Evidential difficulties (suspect identified; victim supports action)	32	22	30	22	19
14, 16	Evidential difficulties (victim does not support action) <sup>5</sup>	49	51	38	47	60
18	Investigation complete - no suspect identified	2	2	1	1	2
4, 5, 9, 10, 11, 12, 13, 17, 20, 21	Other <sup>6</sup>	4	4	4	3	5
Total offences assigned an outcome (type 1-18, 20, 21)		99	99	99	99	99
Offences not yet assigned an outcome		1	1	1	1	1
Total offences		100	100	100	100	100

**Notes on 2016/17 and 2017/18:**

1. Police recorded crime data are not designated as National Statistics.
2. Based on 37 police forces that supplied adequate data.
3. Percentages based on number of outcomes assigned to offences recorded in the respective year ending March divided by number of offences; due to rounding, the percentages reported per category may not always add up to the column totals.
4. Includes caution – adults; caution – youths; Penalty Notices for Disorder; cannabis/khat warnings; and community resolutions.
5. Includes evidential difficulties where the suspect was/was not identified, and the victim does not support further action.
6. 'Other' outcomes include taken into consideration; prosecution prevented or not in the public interest; action undertaken by another body/agency; and further investigation to support formal action not in the public interest.

Source: Home Office data hub; extracted January 2021

**2018/19<sup>1,2,3</sup>**

Outcome codes	Outcome	Controlling or coercive behaviour offences	All domestic abuse-related offences	Domestic abuse-related stalking offences	Domestic abuse-related assault with injury offences	Domestic abuse-related assault without injury offences
1	Charged/Summoned	6	12	17	16	7
2, 3, 6, 7, 8	Out-of-court (formal and informal) <sup>4</sup>	0	3	2	3	3
15	Evidential difficulties (suspect identified; victim supports action)	35	24	33	23	20
14, 16	Evidential difficulties (victim does not support action) <sup>5</sup>	51	54	40	52	63
18	Investigation complete - no suspect identified	1	2	2	1	1
4, 5, 9, 10, 11, 12, 13, 17, 20, 21	Other <sup>6</sup>	4	4	4	4	5
Total offences assigned an outcome (type 1-18, 20, 21)		98	99	98	99	99
Offences not yet assigned an outcome		2	1	2	1	1
Total offences		100	100	100	100	100

**2019/20<sup>1,2,3</sup>**

Outcome codes	Outcome	Controlling or coercive behaviour offences	All domestic abuse-related offences	Domestic abuse-related stalking offences	Domestic abuse-related assault with injury offences	Domestic abuse-related assault without injury offences
1	Charged/Summoned	5	10	12	13	5
2, 3, 6, 7, 8	Out-of-court (formal and informal) <sup>4</sup>	0	2	2	3	2
15	Evidential difficulties (suspect identified; victim supports action)	32	24	30	22	19
14, 16	Evidential difficulties (victim does not support action) <sup>5</sup>	54	56	47	54	64
18	Investigation complete - no suspect identified	1	2	1	1	1
4, 5, 9, 10, 11, 12, 13, 17, 20, 21	Other <sup>6</sup>	4	4	4	3	5
Total offences assigned an outcome (type 1-18, 20, 21)		96	98	96	97	96
Offences not yet assigned an outcome		4	2	4	3	4
Total offences		100	100	100	100	100

**Notes on 2018/19 and 2019/20:**

- Police recorded crime data are not designated as National Statistics.
  - 2018/19 data are based on 37 forces that supplied adequate data. 2019/20 data are based on 36 police forces that supplied adequate data.
  - Percentages based on number of outcomes assigned to offences recorded in the respective year ending March divided by number of offences; due to rounding, the percentages reported per category may not always add up to the column totals.
  - Includes caution – adults; caution – youths; Penalty Notices for Disorder; cannabis/khat warnings; and community resolutions.
  - Includes evidential difficulties where the suspect was/was not identified, and the victim does not support further action.
  - 'Other' outcomes include taken into consideration; prosecution prevented or not in the public interest; action undertaken by another body/agency; and further investigation to support formal action not in the public interest.
- Source: Home Office data hub; extracted January 2021

## Annex 3 – The nature of CCB and impacts of legislation in other countries

### The nature of CCB

Stark (2007) provided the seminal description and definition of the nature of controlling or coercive behaviour (CCB), which directly influenced the Government definition used in Section 76 of the Serious Crime Act 2015. He defines coercive control as a cumulative form of subjugation that uses a range of tactics – physical abuse alongside a pattern of non-physical abusive behaviours such as threats, intimidation, stalking, destruction of personal property, psychological abuse, economic oppression and restrictions on liberty.

However, the idea that domestic abuse can encompass violent and non-violent behaviours was initially explored by Johnson (1995). In this and a later study, Johnson (1995; 2008) identifies three typologies of domestic abuse, which are broadly organised around perpetrator motivation, referred to as ‘situational couple violence’, ‘violent resistance’ and ‘intimate terrorism’. Situational couple violence describes violent incidents that occur when arguments between partners get out of control, whereas violent resistance is characterised by self-defence or retaliation by victims of domestic abuse. He describes ‘intimate terrorism’ as domestic abuse where the violence used in the relationship is part of a range of behaviour that men use to dominate and control their female partners. It is this type of violence, he argues, that is more likely to have more damaging physical and psychological consequences.

Stark (2007) constructs coercive control as a liberty crime, arguing that it erodes personal freedoms and choice. Perpetrator motivation is set around a need for control, and challenges to that control produce an environment where homicide is more likely. An Australian study by Johnson et al (2019) found that controlling patterns were found in most cases of intimate partner femicide. Similarly, other research identified by Monckton Smith (2019) suggest that domestic abuse characterised by patterns of coercive control and/or stalking is more likely to end in homicide (see Campbell *et al.*, 2003; Campbell *et al.*, 2007; Dobash and Dobash, 2015; Mullen et al., 2000; Stark, 2009).

Although coercive control does not always involve violence, violence and threats of violence often form part of a wider pattern of coercive and controlling abuse. Stark and Hester (2019) point to studies that have demonstrated, for example, that a pattern of CCBs can precede, motivate, or increase the likelihood of violence in relationships (Graham-Kevan and Archer, 2008; Hardesty *et al.*, 2015) and that the dynamics and consequences of coercive control without violence appear similar to those of coercive control with violence (Crossman *et al.*, 2016).

Monckton Smith (2019) notes that, contrary to situational couple violence and violent resistance, social and cultural belief systems and systemic gender inequality are thought to influence the likelihood of coercive and controlling behaviour occurring (Dobash and Dobash, 1998; Hall, 2015; Johnson, 2011; Yllo and Bograd, 1988). Furthermore, Stark (2009) argues that whilst mental illness and drug and alcohol misuse do not cause CCB, they may exacerbate these behaviours.

Much of the domestic abuse literature indicates that coercive control is perpetrated almost exclusively by men (Johnson, 2006; Monckton Smith, 2019; Stark, 2007; Wiener, 2017, citing Dobash and Dobash, 2004). Stark (2007; 2018) positioned coercive control as an extension of 'gendered inequality' among heterosexual partners, and the statutory guidance framework for the CCB offence recognises its gendered nature: "*Controlling or coercive behaviour is primarily a form of violence against women and girls and is underpinned by wider societal gender inequality*" (Home Office, 2015b). Some data on the characteristics of victims of controlling or coercing behaviour are presented in Annex 1.

### CCB legislation in other countries

Tasmania introduced two new offences in its Family Violence Act in 2004: one of economic abuse and one of emotional abuse and intimidation. Both of these deal with aspects of coercive control and are defined in terms of an ongoing course of conduct (see McMahon and McGorrery, 2016). The maximum penalties are a fine (\$6,000 in 2016) or two years imprisonment. While the Tasmanian offences solely apply to the defendant's 'spouse or partner', the definition of 'spouse or partner' includes anyone with whom the defendant "*is, or has been, in a relationship*", thereby including ex-partners. The law criminalises certain types of economic abuse (such as coercing the other to cede control over assets or withholding necessary financial support) and emotional abuse (a course of conduct 'causing mental harm, apprehension or fear'), but the English offence is 'much broader' in its definition of emotional abuse.

McMahon and McGorrery point out that by 2015, only eight people had been convicted of emotional abuse or intimidation in Tasmania, while not one person had been convicted of economic abuse. They note that the offences have been hampered by problems, including that they have a short statutory limitation period (initially 6 months, increasing to only 12 months) and that they are redundant, as they are covered by alternative, more accessible, criminal offences. They also state that they are poorly constructed – for example, the formulation of economic abuse requires a specific intent to unreasonably control or intimidate, creating difficulties in prosecuting the offence. Similarly, the offence of emotional abuse or intimidation requires that the perpetrator knew or ought to have known that the conduct was unreasonably controlling or intimidating, which Douglas (2018a; 2018b) contends leaves scope for the accused to argue that the behaviour was reasonably controlling or intimidating. McMahon and McGorrery (2016) recommend caution in both reform of Tasmanian law and in the development of similar offences elsewhere.

France passed an offence of 'psychological violence within marriage' in 2010. Those found guilty face up to 3 years in jail and a fine of 75,000 euros. However, press coverage at the time commented that the law was thought to be too vague by some French judges and the police (Erlanger, 2010; Huffington Post, 2017). The legislation does not yet appear to have been researched or analysed in the English-speaking academic press.

The Scottish offence of domestic abuse, enacted in the Domestic Abuse (Scotland) Act 2018, refers to "*behaviour which is abusive of a partner or ex-partner*". It extends to persons living separately and references the offender's 'reasonable' understanding that his behaviour will frighten or otherwise harm the targeted partner rather than proof of those effects by the victim.

A separate offence of CCB was considered in Scotland, but it was rejected in favour of capturing a wider range of behaviours within a single offence. This offence includes financial abuse and other behaviours that are already offences, such as violent and threatening behaviour, as well as those not previously captured in existing laws, such as controlling, regulating or monitoring the victim's day-to-day activities. Stark and Hester (2019) argue that the Scottish bespoke offence responds to shortcomings that critics identified in Section 76, by:

- specifying multiple elements of coercion and control, including violence and sexual assault;
- extending coverage to former partners;
- increasing the maximum sanction; and
- shifting the weight of evidence to the perceived intent of the offender.

There is little evidence assessing the impact of the Scottish offence, given its recent introduction. However, Burman and Brooks-Hay (2018, p 75), writing before the law came into force, expressed positivity about the new Scottish offence, writing that: *“there is scope for the new offence to make a symbolic and positive contribution to improving understanding of coercive control, particularly if its introduction is accompanied by public awareness-raising campaigns”*. However, they also point to potential difficulties posed by Scottish evidentiary requirements, such as:

- the requirement of corroboration in Scots law, which requires two different and independent sources of evidence in order to prove a crime; and
- the potential unintended consequences in terms of greater reliance on victim testimony.

In addition, Burman and Brooks-Hay also note potential issues around difficulties in recognising coercive control, particularly for the police, and low levels of reporting. They argue that there is a risk that misuse of the proposed offence could see victims of domestic abuse criminalised in instances where they have attempted to protect themselves or their children – for example, where women who are in, or are escaping, an abusive relationship with children withhold parental visitation due to safety concerns, which may then be construed as psychological abuse against their partner or ex-partner. However, they suggest that such risks may be mitigated by the incorporation of the ‘reasonable person’<sup>54</sup> test and the focus on perpetrator intent within the proposed offence.

Similarly, in Ireland, the Domestic Violence Act 2018 includes spouses, civil partners and people who have previously been *“in an intimate relationship with that other person”*, but it excludes family members. It includes an offence of coercive control, which encompasses behaviour that is:

- controlling or coercive;<sup>55</sup>
- has a serious effect on a relevant person; and

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<sup>54</sup> i.e. that a ‘reasonable’ person would understand that their abusive behaviour will frighten or otherwise harm the targeted partner.

<sup>55</sup> ‘Coercive control’ is not defined further in the legislation, see: <http://www.irishstatutebook.ie/eli/2018/act/6/enacted/en/pdf>

- a reasonable person would consider this behaviour likely to have a serious effect on a relevant person.

Under the Act, coercive control is an arrestable offence, liable on conviction to a fine or a term of imprisonment not exceeding five years (An Garda Síochána, 2018; Republic of Ireland, 2018). However, as with Scotland, it is too early to judge the effectiveness of this legislation.

## Annex 4 – Example of survey sent to stakeholders

### Coercive and Controlling Behaviour Offence Review 2019

#### PRACTITIONER SURVEY

**Notes:** please provide as much or as little information as you wish. For some questions, you may find it easier to provide a handful of examples i.e. for the characteristics/demographics questions or provide a general statement on the broad percentage of these types of victims/perpetrators. Any information you are able to provide to help us build a picture of the usage and effectiveness of the offence is greatly welcomed.

**Name and Position:**

**Organisation:**

**Contact Details:**

#### **Prevalence, Reporting and Criminal Justice Outcomes**

1. How many cases involving coercive and controlling behaviour has your organisation been involved with over the last 12 months?
2. How does that compare with when the offence was first introduced?
3. What proportion of those cases reported their abuse to the police or another statutory body? Please give details:
4. In your opinion, how did those cases progress through the criminal justice system? How long did they take? What other charges were brought? Did the victim get a satisfactory outcome?

#### **Characteristics (Protected) and Demographics of Victims (and Perpetrators)**

##### VICTIMS

5. In the cases you're familiar with, what were the genders, ages, religions, ethnicities and sexual orientations of the victims? If you hold your own data on this, please share if you can. If applicable, please provide specific details on the following:
  - a. Previous abuse
  - b. Immigration status
  - c. Mental health
  - d. Disabilities
  - e. Children
6. From what you were able to understand, what was the extent of their support network? Family? Friendship groups?
7. In your experience, are there different risks associated with those living in rural areas/communities?  
If so, why in your opinion?

8. For those victims who came forward, what prompted them to report?
9. If coercive control had been happening for a long while before, what prevented them from reporting to the police?
  - a. Fear of further abuse?
  - b. Not recognising as abuse?
  - c. Fear of not being believed?
  - d. Concerns about providing evidence?
  - e. Anything else?
10. What was their understanding of the abuse they were suffering? Did they recognise it as a form of domestic abuse?

### PERPETRATORS

11. What were the genders, ages, religions, ethnicities and sexual orientations of the perpetrators in the cases you dealt with? If you hold your own data on this, please share if you can. If applicable, please provide specific details on the following:
  - a. Criminal history
  - b. Immigration status
  - c. Mental health
  - d. Disabilities
  - e. Children
12. How were they connected to the victim?

Current partner? Previous partner? Relative?
13. Based on your knowledge of the perpetrators you encountered, what did/do you believe was the motivation behind their offending?

### Reflections

14. In your opinion, what would you say were the main challenges in reporting and investigating this crime?
15. What could be done at national and regional level to provide better support in reporting and investigating these crimes more generally?
16. What would you say were the main challenges in prosecuting perpetrators in these cases?
17. What could be done to address/alleviate these?
18. In the cases you have been involved in, what do you think worked well and why? What do you think are the lessons learned from these cases?



19. Is there anything else you would like to add? Please add in the textbox below.

Thank you for completing this survey.

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