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Assembly

## Research and Information Service Research Paper

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# The criminalisation of coercive control

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This research paper outlines the different approaches taken to criminalise coercive control in the UK and in the Republic of Ireland. It also summarises the emphasis placed on coercive control by government-level strategy in each jurisdiction, and the available statistical data on the prevalence of this type of abuse.

**Please note – nothing in this paper constitutes legal advice or should be used as a substitute for such.**



## Key Points

- Coercive control is a kind of non-physical domestic abuse encompassing a variety of behaviours. These behaviours can include humiliation, intimidation, or restriction of a victim's liberty.
- While the exact prevalence of coercive or controlling behaviours in the general population is not known, victimisation surveys suggest that they are more widespread than physical or sexual abuse. However, they are less likely to be reported to the police.
- Research into domestic homicides has found that lethal violence is often preceded by coercive control.
- Article 33 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (also known as the Istanbul Convention) calls for state parties to criminalise acts of psychological violence such as coercive control.
- The UK and the Republic of Ireland have both signed the Istanbul Convention, and have taken steps towards implementing article 33.
- Northern Ireland is the only jurisdiction in the UK not to have introduced legislation to criminalise coercive control, due to the lack of a fully functioning legislative assembly.
- The draft Domestic Abuse Bill is expected to consolidate domestic abuse legislation in England and Wales and include a wider range of non-physical behaviours. Discussions are ongoing over extending the Bill to Northern Ireland.
- In England and Wales, coercive control was first criminalised in 2015. Existing legislation adopts a narrow definition of coercive control, but it applies both to intimate partners and family members.
- In Scotland, the criminalisation of psychological abuse is part of long-term government-level strategy on domestic abuse. The Scottish legislation introduces a wide definition of coercive control, but limits it to current or former intimate partners.
- In the Republic of Ireland, the definition of coercive control is modelled on England and Wales legislation, although limited to current or former intimate partners. The legislation was not initiated by the government, but was introduced following an amendment to a Domestic Violence Bill in the Seanad.
- Scotland and England and Wales are in the process of amending their data collection methods to capture the incidence of coercive control, while the Republic of Ireland currently produces no reliable statistical data on domestic abuse.



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## 1 Introduction

This paper examines the current legal framework on coercive control in an intimate or family relationship in England and Wales, Scotland, Northern Ireland, and the Republic of Ireland. For each of these jurisdictions, it outlines the criminal law provisions on coercive control; the prominence given to coercive control or other types of non-violent domestic abuse in government-level strategy; how coercive control is recorded in crime data; and, in the case of England and Wales, data on prosecutions and sentencing of coercive control.

## 2 What is coercive control?

There is no universally recognised definition of coercive control. According to UK charity Women's Aid, coercive control is "an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim"<sup>1</sup>. Coercive control is an umbrella term used to encompass a number of abusive behaviours which may not involve physical or sexual violence.

Coercive and/or controlling behaviours may thus be considered a type of non-violent or psychological harm. However, research suggests that in the context of domestic abuse coercive control is a predictor of physical or sexual violence<sup>2</sup>. A review of 358 killings of women by men in the UK found that stalking or obsessive behaviours were present in 94% of cases, and control in 92%. If the homicide had taken place between partners or former partners, both coercive control and stalking were likely to have been present<sup>3</sup>.

The UK and the Republic of Ireland have both signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (also known as the Istanbul Convention). However, the UK is yet to ratify the Convention. Articles 33 and 34 of the Istanbul Convention call on state parties to criminalise the use of coercion or threatening conduct to damage a person's psychological wellbeing or sense of safety<sup>4</sup>. This paper outlines the measures taken by the UK and the Republic of Ireland to comply with this obligation.

## 3 England and Wales

England and Wales was the first jurisdiction among the UK and the Republic of Ireland to introduce a specific offence criminalising non-violent domestic abuse. This section

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<sup>1</sup> Women's Aid. What is coercive control? Accessed June 2019 at <https://www.womensaid.org.uk/information-support/what-is-domestic-abuse/coercive-control/>

<sup>2</sup> Stark, E. and Hester, M. (2019). Coercive Control: Update and Review. *Violence Against Women*, 25(1), pp. 81–104. Accessed June 2019 at

<https://journals.sagepub.com/doi/abs/10.1177/1077801218816191?journalCode=vawa#articleCitationDownloadContainer>

<sup>3</sup> Monckton-Smith, J., Szymanska, K. and Haile, S. (2017). Exploring the relationship between stalking and homicide. Suzy Lamplugh Trust. Accessed June 2019 at <http://eprints.glos.ac.uk/4553/1/NSAW%20Report%2004.17%20-%20finalsmall.pdf>

<sup>4</sup> Council of Europe (2011). The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Accessed June 2019 at <https://rm.coe.int/168046031c>

summarises how coercive control is enshrined in law, the government's strategy on tackling non-violent domestic abuse, and available data on prevalence and criminal justice outcomes for the newly-introduced offence of coercive or controlling behaviour.

### 3.1 Legislative framework: the Serious Crime Act 2015

The offence of coercive or controlling behaviour was first introduced by section 76 of the Serious Crime Act 2015. While the Serious Crime Act 2015 makes various provisions for England, Wales, Scotland, and Northern Ireland, section 76 applies to England and Wales only. Section 76 defines the offence as follows:

- (1) A person (A) commits an offence if—*
- (a) A repeatedly or continuously engages in behaviour towards another person (B) that is controlling or coercive,*
  - (b) at the time of the behaviour, A and B are personally connected,*
  - (c) the behaviour has a serious effect on B, and*
  - (d) A knows or ought to know that the behaviour will have a serious effect on B.*
- (2) A and B are “personally connected” if—*
- (a) A is in an intimate personal relationship with B, or*
  - (b) A and B live together and—*
    - (i) they are members of the same family, or*
    - (ii) they have previously been in an intimate personal relationship with each other.*
- (3) But A does not commit an offence under this section if at the time of the behaviour in question—*
- (a) A has responsibility for B, for the purposes of Part 1 of the Children and Young Persons Act 1933 (see section 17 of that Act), and*
  - (b) B is under 16.*
- (4) A's behaviour has a “serious effect” on B if—*
- (a) it causes B to fear, on at least two occasions, that violence will be used against B, or*
  - (b) it causes B serious alarm or distress which has a substantial adverse effect on B's usual day-to-day activities.*

Section 76 sets the requirements that coercive or controlling behaviour must meet to be considered a criminal offence. Section 76 does not include former intimate partners who did not live together at the time of the behaviour, nor instances when the

behaviour has a serious effect that could not be reasonably foreseen. Coercive or controlling behaviour by parents or guardians towards children under 16 years of age is also excluded from this provision. This is because, according to the Act's explanatory notes, this type of behaviour is already covered elsewhere, such as section 1 of the Children and Young Persons Act 1933 as amended by section 66 of the Serious Crime Act<sup>5</sup>.

Coercive or controlling behaviour is a triable either way offence<sup>6</sup>. This means that it can be tried in the magistrates' court (summary offence) or in the crown court (indictable offence). Magistrates' courts can impose a sentence of "*imprisonment for a term not exceeding 12 months, or a fine, or both*" (s.76(11)(b)). If magistrates believe that their sentencing powers would not reflect the severity of the offence, they can send the case to the crown court, where the judge can impose a sentence of "*imprisonment for a term not exceeding five years, or a fine, or both*" (s.76(11)(a)).

### 3.1.1 The Protection from Harassment Act 1997

Before the introduction of the Serious Crime Act 2015, coercive or controlling behaviour could potentially be prosecuted under the Protection from Harassment Act 1997. The Act criminalises any course of conduct which may be considered to amount to harassment of another, or would cause them on at least two occasions to fear that violence would be used against them<sup>7</sup>. The maximum sentence for harassment under this Act is six months' imprisonment, although the court can also make a restraining order against the defendant.

However, case law has shown that harassment is difficult to prosecute in the context of intimate relationships<sup>8</sup>. In *R v Curtis*, for example, the court found that incidents of harassment within a generally affectionate relationship do not fit the course of conduct criminalised in the 1997 Act<sup>9</sup>. Similarly, in the case of *R v Widdows*, the court noted that the offence of harassment was designed to cover a consistent pattern of mistreatment or bullying, which is inconsistent with an ongoing, consensual relationship<sup>10</sup>. Harassment is thus deemed an inadequate offence to prosecute cases of non-violent domestic abuse.

### 3.1.2 Draft provision: The draft Domestic Abuse Bill

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<sup>5</sup> Explanatory notes to the Serious Crime Act 2015, para 312

<sup>6</sup> CPS (2017). Controlling or Coercive Behaviour in an Intimate or Family Relationship. Legal Guidance, Domestic abuse. Accessed June 2019 at <https://www.cps.gov.uk/legal-guidance/controlling-or-coercive-behaviour-intimate-or-family-relationship>

<sup>7</sup> Protection from Harassment Act 1997 c.40

<sup>8</sup> Edwards, A. (2012). Criminal round-up. The Law Society Gazette, 5 January 2012. Accessed June 2019 at <https://www.lawgazette.co.uk/law/criminal-round-up/63588.article>

<sup>9</sup> *R v Curtis* [2010] EWCA Crim 123

<sup>10</sup> *R v Widdows* [2011] EWCA Crim 1500

The draft of a new Domestic Abuse Bill was published in January 2019. This followed the government consultation *Transforming the Response to Domestic Abuse*<sup>11</sup>. One of the stated purposes of the Bill is to improve training and awareness of coercive or controlling behaviour for police, social workers, and young people<sup>12</sup>.

The Bill does not introduce a new offence, but seeks to provide a statutory definition of domestic abuse. According to the Bill, a behaviour is considered to be abusive if it consists of any of the following:

- *physical or sexual abuse*
- *violent or threatening behaviour*
- *controlling or coercive behaviour*
- *economic abuse*
- *psychological, emotional or other abuse*

The Bill defines controlling behaviour as:

*“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 is defined as:

*“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”*

During the consultation, 73% of respondents stated that the government could do more to ensure the effectiveness of the offence of coercive or controlling behaviour introduced by the Serious Crime Act 2015<sup>13</sup>. One suggestion was for the offence to include former partners who are not living together. However, the government concluded that this would be unnecessary, as such circumstances would be covered by stalking and harassment legislation<sup>14</sup>. Still, the government acknowledged that there are *“key similarities between controlling or coercive behaviour occurring within an intimate relationship and stalking behaviours, particularly those related to control, surveillance, intimidation and manipulation of the victim”*<sup>15</sup>.

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<sup>11</sup> HM Government (2018). *Transforming the Response to Domestic Abuse*. Government Consultation (full version). Accessed June 2019 at [https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/supporting\\_documents/Transforming%20the%20response%20to%20domestic%20abuse.pdf](https://consult.justice.gov.uk/homeoffice-moj/domestic-abuse-consultation/supporting_documents/Transforming%20the%20response%20to%20domestic%20abuse.pdf)

<sup>12</sup> HM Government (2019). *Transforming the Response to Domestic Abuse - Consultation Response and Draft Bill*. Accessed June 2019 at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/772202/CCS12181580\\_68-Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772202/CCS12181580_68-Web_Accessible.pdf)

<sup>13</sup> HM Government (2019).

<sup>14</sup> HM Government (2019).

<sup>15</sup> HM Government (2019), page 52.

The territorial extent of the Bill has been the object of debate in the House of Commons<sup>16</sup>. The Bill only extends to England and Wales, as criminal justice is a devolved matter in Scotland and Northern Ireland. However, the Joint Committee on Human Rights (JCHR) have suggested that this puts women in Northern Ireland in a disadvantaged position, as Northern Ireland lacks a specific offence of coercive or controlling behaviour and a legal definition of stalking<sup>17</sup>. The JCHR have argued that this contravenes the UK's obligations under articles 33 and 34 of the Istanbul Convention. Given the prolonged absence of an executive in Northern Ireland, the JCHR have expressed the view that it would be appropriate for the Bill to be extended by the UK Government.

Some opposition MPs have suggested that the UK government's reticence to extend the Bill to Northern Ireland may be due to fears that it may lead to calls to legislate on other matters, such as abortion reform<sup>18</sup>. Opposition MPs have suggested that this may undermine the confidence-and-supply agreement between the Conservative government and the Democratic Unionist Party (DUP), which opposes abortion reform in Northern Ireland. The UK government has reiterated its position that, since the topic of the Bill is a devolved matter in Scotland and Northern Ireland, it remains up to the devolved authorities to "*replicate this legislation in their own territories*"<sup>19</sup>.

The Joint Committee on the Draft Domestic Abuse Bill published its first report on the Bill on 14 June 2019<sup>20</sup>. In the report, the Committee states that the issue of abortion in Northern Ireland goes beyond the scope of the Bill. However, in light of the obligations put on the UK by the Istanbul Convention, and the continuing absence of a fully functioning legislative assembly, the Committee believes that the Bill should extend to Northern Ireland. The Committee recommends the introduction of a sunset clause to extend the Bill to Northern Ireland "*unless and until Northern Ireland enacts its own legislation in this area*"<sup>21</sup>.

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<sup>16</sup> House of Commons Debate (30 January 2019). Draft Domestic Abuse Bill: Territorial Extent. Volume 653. Accessed June 2019 at <https://hansard.parliament.uk/Commons/2019-01-30/debates/ADEE1505-0CB6-4EA4-8467-70759A5297CA/DraftDomesticAbuseBillTerritorialExtent>

<sup>17</sup> Joint Committee on Human Rights (2019). Correspondence from Chair on the Draft Domestic Abuse Bill, dated 10 April 2019. Accessed June 2019 at <https://www.parliament.uk/documents/joint-committees/human-rights/correspondence/2017-19/Correspondence-from-JCHR-Chair-Draft-domestic-abuse-bill-100419.pdf>

<sup>18</sup> House of Commons Debate (30 January 2019). Draft Domestic Abuse Bill: Territorial Extent. Volume 653. Accessed June 2019 at <https://hansard.parliament.uk/Commons/2019-01-30/debates/ADEE1505-0CB6-4EA4-8467-70759A5297CA/DraftDomesticAbuseBillTerritorialExtent>

<sup>19</sup> House of Lords Debate (31 January 2019). Domestic Abuse Bill – Statement. Accessed June 2019 at <https://hansard.parliament.uk/lords/2019-01-31/debates/08C21111-165D-42A1-96AA-FB4166CB17F1/DomesticAbuseBill>

<sup>20</sup> Joint Committee on the Draft Domestic Abuse Bill (2019). Draft Domestic Abuse Bill. First Report of Session 2017–19. Accessed June 2019 at <https://publications.parliament.uk/pa/jt201719/jtselect/jtddab/2075/2075.pdf>

<sup>21</sup> Joint Committee on the Draft Domestic Abuse Bill (2019).

## 3.2 Coercive control and government-level strategy

The UK government's key national strategic document on domestic violence is titled *Ending Violence against Women and Girls 2016-2020*<sup>22</sup>. The strategy, which only applies to England and Wales, mentions the criminalisation of coercive or controlling behaviour as a step forward, and part of efforts to improve the criminal justice system's understanding of patterns of domestic abuse. Furthermore, the strategy aims to improve understanding of these behaviours so they can be more widely reported.

The strategy's action plan states the government's commitment to invest £250,000 to improve police officers' training on coercive control and ensure the effective implementation of section 76 of the Serious Crime Act<sup>23</sup>.

## 3.3 Crime data and criminal justice outcomes

England and Wales was the first jurisdiction among those included in this paper to specifically criminalise coercive or controlling behaviour. It is therefore the only one for which data is currently available on prosecutions and convictions for this offence, in addition to statistics on its prevalence.

Crime statistics in the UK usually include both police-recorded data and large-scale victimisation surveys to better estimate the prevalence of certain offences, including those that are not reported to the authorities. Available police and victimisation data on coercive or controlling behaviour are summarised below, followed by data on criminal justice outcomes.

### 3.3.1 Police-reported statistics

In the year ending March 2018, police forces in England and Wales recorded 9,053 offences of coercive or controlling behaviour<sup>24</sup>. The number has been increasing since the introduction of the new offence, which may reflect growing awareness among police officers of the new provisions<sup>25</sup>. It should be noted that police-recorded statistics are affected by many factors, including the willingness of victims to report crimes, or the officers' decision on which incidents should be recorded, and which incidents are also crimes.

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<sup>22</sup> HM Government (2019). *Ending Violence against Women and Girls 2016-2020*. Strategy refresh. Accessed June 2019 at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/783596/VAWG\\_Strategy\\_Refresh\\_Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/783596/VAWG_Strategy_Refresh_Web_Accessible.pdf)

<sup>23</sup> HM Government (2019). *Ending Violence against Women and Girls*. Action plan 2016-2020. Progress update. Accessed June 2019 at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/783190/VAWG\\_Progress\\_Update\\_Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/783190/VAWG_Progress_Update_Web_Accessible.pdf)

<sup>24</sup> Office for National Statistics (2018). *Domestic abuse in England and Wales: year ending March 2018*. Accessed June 2019 at <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwales/yearendingmarch2018#domestic-abuse-related-offences-specific-crime-types>

<sup>25</sup> Office for National Statistics (2018).

A recent report by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services has found great variation in how domestic abuse incidents are recorded by different police forces. In particular, the report notes that police in England and Wales still need to improve their understanding of coercive or controlling behaviour so it can be correctly identified<sup>26</sup>. Trends in police reporting of this offence cannot at present give an accurate estimate of its prevalence within society.

### 3.3.2 Victimization data

In England and Wales, victimisation data is collected by the Crime Survey for England and Wales (CSEW). The CSEW is a face-to-face victimisation survey based on a sample of approximately 35,000 households<sup>27</sup>. The survey is currently being updated to better reflect the new offence of coercive or controlling behaviour<sup>28</sup>. While the available version of the survey captures some aspects of non-violent abuse, these are often aggregated with incidents of non-sexual physical abuse. It is not feasible at present to estimate the prevalence of coercive or controlling behaviour from survey data.

### 3.3.3 Criminal justice outcomes

Prosecutions for coercive or controlling behaviour have been steadily increasing since the new offence was introduced in 2015. In 2016, 155 people were prosecuted for this offence, with a conviction rate of 38%. Of the 59 people convicted, 28 were sentenced to prison<sup>29</sup>. The number of prosecutions commenced at magistrates' courts was 309 in the year ending March 2017, and 960 in the year ending March 2018<sup>30</sup>. Given that the police recorded 9,053 offences that year, it follows that prosecution was commenced in 11% of cases.

In terms of completed prosecutions, the most recent available data is from the year ending December 2017. In total, there were 468 prosecutions and eight cautions for coercive or controlling behaviour in 2017. Of these, 235 offenders were convicted, and 223 were sentenced for this offence. Among those sentenced to prison, the average sentence length was 17 months<sup>31</sup>.

These numbers relate to prosecutions where coercive or controlling behaviour was the principal offence. A defendant can be prosecuted for more than one offence, and the

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<sup>26</sup> HMICFRS (2019). The police response to domestic abuse – an update report. Accessed June 2019 at <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/the-police-response-to-domestic-abuse-an-update-report.pdf>

<sup>27</sup> More information on methodology can be found in the Quality and Methodology Information report at <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/methodologies/crimeinenglandandwalesqmi>

<sup>28</sup> Office for National Statistics (2018b). Domestic abuse: findings from the Crime Survey for England and Wales: year ending March 2018. Accessed June 2019 at <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabusefindingsfromthecrimesurveyforenglandandwales/yearendingmarch2018>

<sup>29</sup> Ireland, Seanad Éireann (2017). Domestic Violence Bill 2017: Committee Stage. Seanad Éireann debate - Wednesday, 31 May 2017. Accessed June 2019 at <https://www.oireachtas.ie/en/debates/debate/seanad/2017-05-31/12/>

<sup>30</sup> Office for National Statistics (2018).

<sup>31</sup> Office for National Statistics (2018).

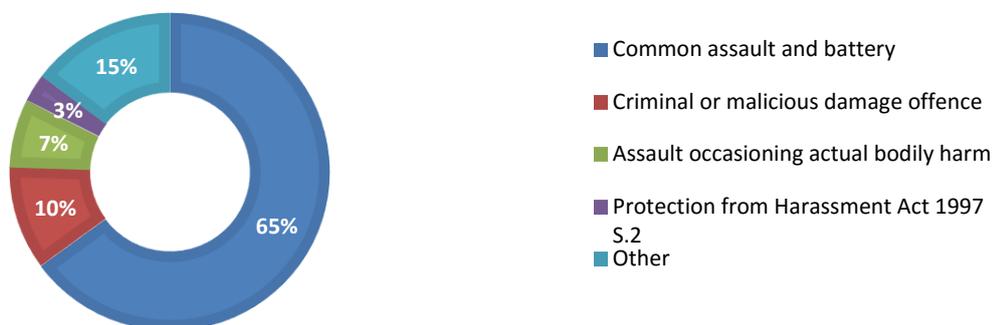
principal offence is usually the most serious. In 2017 the Ministry of Justice collected experimental data which shows those cases in which coercive or controlling behaviour was prosecuted as a non-principal offence, meaning that it was not the most serious offence for which the defendant was being tried<sup>32</sup>. Table 1 below summarises all prosecutions and convictions for coercive or controlling behaviour in 2017, broken down by principal and non-principal offence, and the sex of the defendant.

NUMBER OF PROSECUTIONS				
	Male	Female	Unknown	All
<b>PRINCIPAL OFFENCE</b>	454	9	5	<b>468</b>
<b>NON-PRINCIPAL OFFENCE</b>	429	9	5	<b>443</b>
<b>TOTAL</b>	<b>883</b>	<b>18</b>	<b>10</b>	<b>911</b>
NUMBER OF CONVICTIONS				
	Male	Female	Unknown	All
<b>PRINCIPAL OFFENCE</b>	233	1	1	<b>235</b>
<b>NON-PRINCIPAL OFFENCE</b>	91	4	0	<b>95</b>
<b>TOTAL</b>	<b>324</b>	<b>5</b>	<b>1</b>	<b>330</b>

**Table 1 - Prosecutions and convictions for coercive or controlling behaviour in England and Wales in 2017 (MoJ data).**

Overall, 37% of those prosecuted for coercive or controlling behaviour were convicted. In almost three quarters of convictions (71%), coercive or controlling behaviour had been prosecuted as the principal offence<sup>33</sup>. This means that defendants were more likely to be convicted of coercive or controlling behaviour when this was the most serious offence for which they were being tried.

When coercive or controlling behaviour was prosecuted as a principal offence alongside other offences, common assault and battery was the most frequent non-principal offence, as shown in figure 1 below<sup>34</sup>.



**Figure 1 - Non-principal offences prosecuted alongside coercive or controlling behaviour in 2017 (MoJ data).**

<sup>32</sup> Office for National Statistics (2018).

<sup>33</sup> Office for National Statistics (2018).

<sup>34</sup> Office for National Statistics (2018).

## 4 Scotland

Around the time that the new offence of coercive or controlling behaviour was being introduced in England and Wales, the Scottish Government began a consultation on the creation of a new offence of domestic abuse<sup>35</sup>. The new offence includes both physical and non-physical domestic abuse, and defines non-physical abuse as causing psychological harm. This brings coercive control behaviours within the legal definition of domestic abuse.

### 4.1 Legislative framework: The Domestic Abuse (Scotland) Act 2018

Psychological abuse is criminalised in Scotland by sections 1 and 2 of the Domestic Abuse (Scotland) Act 2018. The Act defines the offence of domestic abuse as follows:

*(1) A person commits an offence if—*

*(a) the person (“A”) engages in a course of behaviour which is abusive of A’s partner or ex-partner (“B”), and*

*(b) both of the further conditions are met.*

*(2) The further conditions are—*

*(a) that a reasonable person would consider the course of behaviour to be likely to cause B to suffer physical or psychological harm,*

*(b) that either—*

*(i) A intends by the course of behaviour to cause B to suffer physical or psychological harm, or*

*(ii) A is reckless as to whether the course of behaviour causes B to suffer physical or psychological harm.*

Domestic abuse is defined in the Act as a course of behaviour that causes harm. A course of behaviour can include action or communication, but also the failure to act or communicate, and cannot be limited to a single incident. As is the case for section 76 of the Serious Crime Act, the behaviour is harmful if a reasonable person would consider it to be, regardless of the actual impact on the victim (s. 4).

Under the Act, physical and psychological abuse can be prosecuted together<sup>36</sup>. The newly introduced offence of psychological abuse is defined in section 1(3) as including causing “*fear, alarm and distress*”, while section 2 lists a number of behaviours that can be classified as abusive. The Act’s understanding of psychological harm and its effects

<sup>35</sup> Justice Committee (2017). Stage 1 Report on the Domestic Abuse (Scotland) Bill. SP Paper 198. Accessed June 2019 at [https://sp-bpr-en-prod-cdnep.azureedge.net/published/J/2017/9/21/Stage-1-Report-on-the-Domestic-Abuse--Scotland-Bill/Stage%201%20Report%20on%20the%20Domestic%20Abuse%20\(Scotland\)%20Bill.pdf](https://sp-bpr-en-prod-cdnep.azureedge.net/published/J/2017/9/21/Stage-1-Report-on-the-Domestic-Abuse--Scotland-Bill/Stage%201%20Report%20on%20the%20Domestic%20Abuse%20(Scotland)%20Bill.pdf)

<sup>36</sup> Justice Committee (2017).

is generally consistent with the definition of coercive or controlling behaviour adopted in England and Wales. However, there are some fundamental differences in the law in the two jurisdictions.

Unlike section 76 the Serious Crime Act, the Domestic Abuse (Scotland) Act includes partners or former partners regardless of whether they live together. However, the Scottish Act exclusively addresses abuse directed towards partners or ex partners, whereas the offence of coercive or controlling behaviour in England and Wales includes other types of family relationships. While section 76 excludes children under 16 years of age, the Scottish Act criminalises harmful behaviour against children under 18 (s.2(2)). The Scottish Act acknowledges that abusers can use children or other individuals as means to cause harm. It is also an aggravating circumstance for the abuse to take place in the presence of a child, regardless of the child's awareness or understanding (s.5). Nevertheless, the Act cannot be used to prosecute abuse towards people other than a partner or former partner<sup>37</sup>.

Like coercive or controlling behaviour, domestic abuse (whether physical or psychological) is a triable either way offence. A person convicted under the Domestic Abuse (Scotland) Act can be sentenced to up to 12 months in prison or a fine (or both) in the lower courts; if referred to the higher courts, they can be sentenced to up to 14 years' imprisonment or a fine (or both). The maximum penalty for domestic abuse in Scotland is substantially higher than the one for coercive or controlling behaviour in England and Wales; however, it should be kept in mind that the former intends to capture a wider range of behaviours than the latter.

## 4.2 Coercive control and government-level strategy

The Scottish Government publishes a yearly Programme for Government outlining its key strategic objectives. The government's programme for 2018-2019 mentions the introduction of the Domestic Abuse (Scotland) Act 2018 as a step forward in the criminalisation of "*coercive controlling behaviours against [a] partner or ex-partner*"<sup>38</sup>. The Act's new definition of domestic abuse means that addressing violent and non-violent behaviours are now both part of the government's strategy.

The implementation of the new legislation has been supported through a major training programme for 14,000 Police Scotland officers and staff. Future action points include: an upcoming consultation on protective orders for those at risk of domestic abuse; the expansion of rehabilitation services for perpetrators of domestic abuse; and a further consultation on improving multi-agency interventions<sup>39</sup>.

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<sup>37</sup> Justice Committee (2017).

<sup>38</sup> Scottish Government (2018). Delivering for today, investing for tomorrow: the Government's programme for Scotland 2018-2019. Accessed June 2019 at <https://www.gov.scot/publications/delivering-today-investing-tomorrow-governments-programme-scotland-2018-19/pages/2/>

<sup>39</sup> Scottish Government (2018).

In addition to the Programme for Government, in 2018 the Scottish Government and the Local Government and Communities Directorate (COSLA) have jointly published a specific domestic violence strategy titled *Equally Safe: Scotland's strategy to eradicate violence against women*<sup>40</sup>. The strategy takes a gender-based approach to domestic abuse, which it defines as:

*“actions that result in physical, sexual and psychological harm or suffering to women and children, or affront to their human dignity, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.”*<sup>41</sup>

The strategy, which precedes the implementation of the Domestic Abuse (Scotland) Act 2018, explicitly mentions coercive control and its impact on women and on children, advocating for the introduction of a specific offence criminalising coercive or controlling behaviours and psychological abuse.

### 4.3 Data on non-violent domestic abuse

There is no available data yet on prosecutions and criminal justice outcomes under the Domestic Abuse (Scotland) Act 2018. However, crime data provides an overview of how psychological abuse is currently measured in Scotland.

#### 4.3.1 Police data

Police-recorded data on the prevalence of psychological abuse as introduced by the Domestic Abuse (Scotland) Act 2018 is not yet available. The latest bulletin on police-recorded domestic abuse statistics states that “[t]he Scottish Crime Recording Board is considering how to record the new offence”<sup>42</sup>.

#### 4.3.2 Victimization data

Scotland’s victimisation survey, the Scottish Crime and Justice Survey, includes questions on psychological and financial abuse, and controlling behaviour. These are some of the behaviours that can fall under the definition of domestic abuse under the Domestic Abuse (Scotland) Act 2018. However, the definition of domestic abuse used in the survey is currently under review, and may be updated in future editions to better reflect psychological harm as defined in the Act<sup>43</sup>.

The 2017-18 Crime and Justice Survey provides the most recent available data on criminal victimisation in Scotland. The survey includes 5,475 face-to-face interviews

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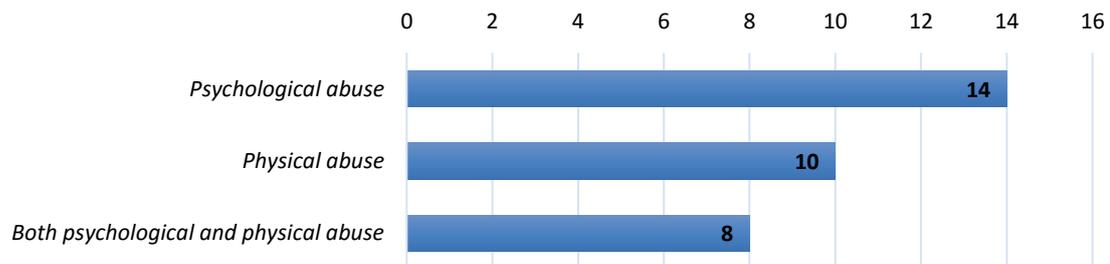
<sup>40</sup> Scottish Government and COSLA (2018). *Equally Safe: Scotland's strategy to eradicate violence against women*. Accessed June 2019 at <https://www.gov.scot/publications/equally-safe-scotlands-strategy-prevent-eradicate-violence-against-women-girls/>

<sup>41</sup> Scottish Government and COSLA (2018).

<sup>42</sup> Scottish Government (2018b). *Domestic abuse in Scotland: 2017 - 2018 statistics*. Accessed June 2019 at <https://www.gov.scot/publications/domestic-abuse-recorded-police-scotland-2017-18/>

<sup>43</sup> National Statistics (2018). *Scottish Crime and Justice Survey 2017-2018: main findings*. Accessed June 2019 at <https://www.gov.scot/publications/scottish-crime-justice-survey-2017-18-main-findings/pages/1/>

conducted with individuals aged 16 and over in their own home<sup>44</sup>. The general response rate for this survey was 62.4%, although it should be noted that not all participants provide an answer to all parts of the survey<sup>45</sup>. When respondents reported having experienced partner abuse, incidents of psychological abuse were reported more frequently than physical abuse<sup>46</sup>. As shown in figure 2 below, approximately 14% of respondents reported having been psychologically abused at least once since the age of 16, while 10% reported at least one incident of physical abuse; 8% of respondents had experienced both<sup>47</sup>.



**Figure 2 - Self-reported lifetime experiences of partner abuse. Data from the 2017-18 Crime and Justice Survey. All percentages are rounded.**

The survey provides a breakdown of specific behaviours that may constitute psychological abuse, which are summarised in figure 3 below. The most frequently reported kind of psychological abuse from a partner was “*behaved in a jealous or controlling way*”, followed by “*repeatedly put you down so that you felt worthless*”. When asked about the most recent incident of partner abuse, respondents stated that the police had been informed only in 19% of cases<sup>48</sup>.

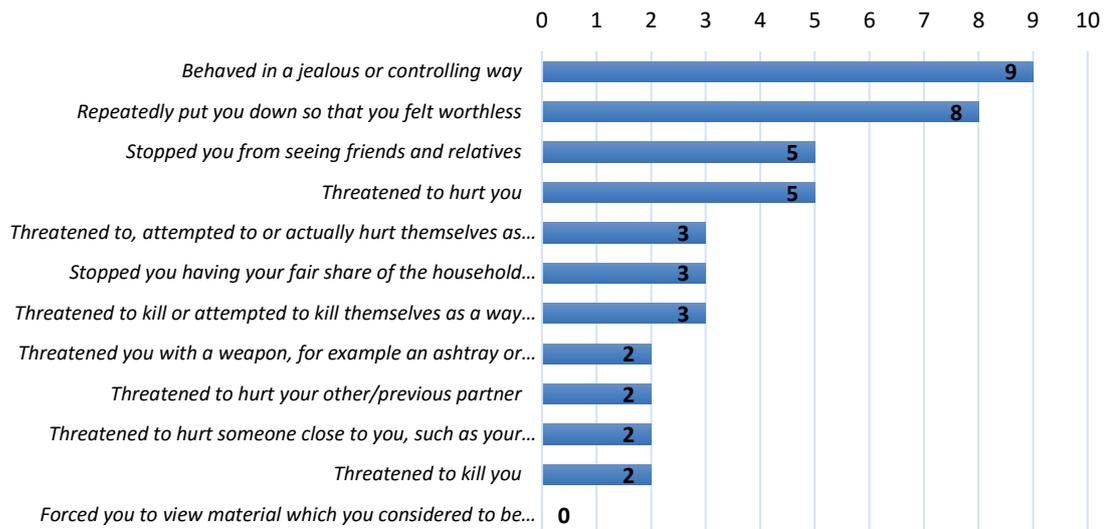
<sup>44</sup> National Statistics (2018).

<sup>45</sup> For more information see the Technical Report at <https://www2.gov.scot/Resource/0054/00547069.pdf> and the Methodological Note at <https://www2.gov.scot/Resource/0054/00546917.pdf>

<sup>46</sup> National Statistics (2018). Scottish Crime and Justice Survey 2017-2018: main findings. Accessed June 2019 at <https://www.gov.scot/publications/scottish-crime-justice-survey-2017-18-main-findings/pages/1/>

<sup>47</sup> All percentages are rounded.

<sup>48</sup> National Statistics (2018).



**Figure 3 - Self-reported lifetime experiences of non-physical abuse by type of behaviour. Data from the 2017-18 Crime and Justice Survey. All percentages are rounded.**

## 5. Northern Ireland

Northern Ireland is the only jurisdiction in the UK not to have criminalised coercive control. This section outlines what plans were put in place by the previous executive, and the available crime data on non-violent abuse. As noted earlier on in this paper, the legislative framework may change if the Domestic Abuse Bill in England and Wales is extended to Northern Ireland.

### 5.1 Legislative framework

There is currently no legislation criminalising coercive control or similar non-violent domestic abuse in Northern Ireland. Some instances of non-violent abuse may be prosecuted under the Protection from Harassment (Northern Ireland) Order 1997 (the 1997 Order). The definition of harassment provided by the 1997 Order is similar to the one employed by the Protection from Harassment Act 1997 in England and Wales; both are similarly inadequate when prosecuting abuse among intimate partners<sup>49</sup>. The Order is also used to prosecute offences such as stalking, as Northern Ireland is the only jurisdiction in the UK not to have specific provisions to criminalise this offence<sup>50</sup>.

<sup>49</sup> Department of Justice (2016). Domestic Abuse Offence and Domestic Violence Disclosure Scheme – A Consultation. Accessed June 2019 at <https://www.justice-ni.gov.uk/sites/default/files/consultations/doj/consultation-domestic-violence.PDF>

<sup>50</sup> Killean, R., Stannard, J., McNaull, G., Beigi, S., Born, A., Johnston, S., ... Watters, J. (2016). Review of the Need for Stalking Legislation in Northern Ireland. Queen's University Belfast. Accessed June 2019 at [https://pure.qub.ac.uk/portal/files/123538801/Review\\_of\\_the\\_Need\\_for\\_Stalking\\_Legislation\\_in\\_Northern\\_Ireland.pdf](https://pure.qub.ac.uk/portal/files/123538801/Review_of_the_Need_for_Stalking_Legislation_in_Northern_Ireland.pdf)

In 2016 the Department of Justice published a consultation on the creation of a new offence of coercive and controlling behaviour within intimate relationships<sup>51</sup>. The consultation described coercive and controlling behaviour as follows:

*“Controlling behaviour is described as 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 is described as an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten a victim.”*

The vast majority of respondents supported the creation of a new offence<sup>52</sup>. They suggested that the offence should include mental, emotional, and financial control; it should apply both to partners and ex-partners; and the criminal justice system should take into account patterns of behaviour rather than just individual incidents. Respondents also expressed concerns over potential difficulties in prosecuting non-violent abuse, suggesting that a reform of how police collect evidence for domestic abuse cases may be needed<sup>53</sup>.

Following the consultation, the Minister of Justice announced her intentions to bring forward a new offence, with a draft bill expected to be introduced at the beginning of 2017<sup>54</sup>. However, this did not take place due to the breakdown of power-sharing in January 2017 and the ensuing dissolution of the Northern Ireland Executive. Similarly, plans by the Justice Committee to produce a report supporting the introduction of a specific offence of stalking by April 2017 have also remained unfinished<sup>55</sup>.

## 5.2 Coercive control and government-level strategy

The draft Programme for Government (PfG) was still under consultation in January 2017, so it was never formally adopted. Still, it provides the blueprint for policy development in Northern Ireland. The draft PfG sets out 14 strategic outcomes to be achieved by the Executive, supported by 48 indicators<sup>56</sup>. Domestic abuse does not appear in the draft PfG. Instead, the document states the government’s aim to reduce the total number of victims of crime, as measured by the national victimisation survey.

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<sup>51</sup> Department of Justice (2016).

<sup>52</sup> Department of Justice (2016b). Domestic Abuse Offence and Domestic Violence Disclosure Scheme – A Consultation. Summary of responses. Accessed June 2019 at <https://www.justice-ni.gov.uk/sites/default/files/consultations/justice/domestic-abuse-offence-domestic-violence-disclosure-scheme-summary-of-responses.pdf>

<sup>53</sup> Department of Justice (2016b).

<sup>54</sup> Assembly Question AQO 647/16-21. Asked by Ms Caoimhe Archibald on 27-10-2016. Answered 15-11-2016

<sup>55</sup> Northern Ireland Assembly Debates. Tuesday 29 November 2016, 3pm. Accessed June 2019 at <http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2016-11-29&docID=283509#AQO%20790/16-21>

<sup>56</sup> Northern Ireland Executive, 2017. Draft Programme for Government Framework. Accessed May 2019 at <https://www.northernireland.gov.uk/sites/default/files/consultations/newnigov/draft-pfg-framework-2016-21.pdf>

In March 2016 the Department of Justice and the Department of Health jointly published their *Stopping Domestic and Sexual Violence and Abuse in Northern Ireland* strategy<sup>57</sup>. The strategy introduces the following definition for domestic violence and abuse, which for the first time includes coercive controlling behaviour:

*"threatening, controlling, coercive behaviour, violence or abuse (psychological, virtual, physical, verbal, sexual, financial or emotional) inflicted on anyone (irrespective of age, ethnicity, religion, gender, gender identity, sexual orientation or any form of disability) by a current or former intimate partner or family member"*

This definition is not limited to intimate relationships, but covers a wide range of family connections. Family members are defined as including "mother, father, son, daughter, brother, sister, grandparents, whether directly or indirectly related, including in-laws and step-family". The strategy also lists stalking as an example of non-violent domestic abuse.

### 5.3 Data on non-violent domestic abuse

Since there is no specific offence in Northern Ireland covering coercive and controlling behaviours, these do not explicitly feature in crime statistics. Instead, the section below summarises how non-violent domestic abuse incidents are currently defined and recorded in Northern Ireland.

#### 5.3.1 Police data

The Police Service of Northern Ireland rely on the definition of domestic abuse introduced by the *Stopping Domestic and Sexual Violence and Abuse in Northern Ireland* strategy to flag incidents that appear to have a domestic abuse motivation<sup>58,59</sup>. This means that incidents flagged as domestic abuse can include non-physical abuse on anyone by current or former intimate partner or family member.

Following changes in counting rules introduced in April 2017, the offence of harassment (including malicious communication) with a domestic abuse motivation is now classified separately, and no more aggregated within the 'violence without injury' category<sup>60</sup>. It is reasonable to infer that reported incidents of coercive and controlling behaviours may be included in this category.

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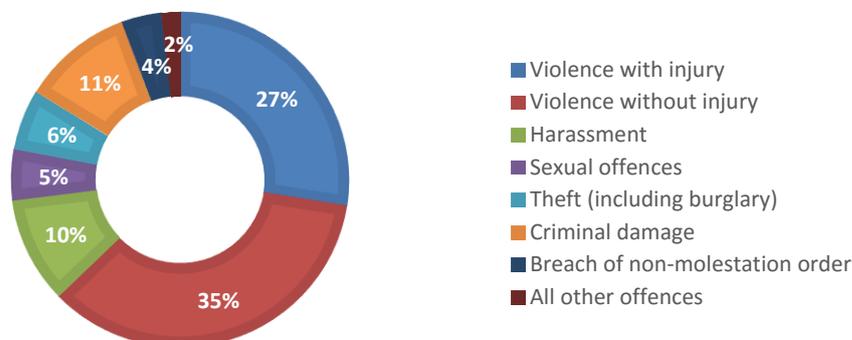
<sup>57</sup> Department of Justice and Department of Health, Social Services and Public Safety (2016). *Stopping Domestic and Sexual Violence and Abuse in Northern Ireland - A Seven Year Strategy*. Accessed June 2019 at <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/stopping-domestic-sexual-violence-ni.pdf>

<sup>58</sup> Scottish Government (2018). *Domestic abuse in Scotland: 2017 - 2018 statistics*. Accessed June 2019 at <https://www.gov.scot/publications/domestic-abuse-recorded-police-scotland-2017-18/pages/22/>

<sup>59</sup> PSNI Statistics Branch (2019). *Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland – Update to 31 March 2019*. Accessed June 2019 at <https://www.psnipolice.uk/globalassets/inside-the-psni/our-statistics/domestic-abuse-statistics/2018-19/q4/domestic-abuse-bulletin-mar-19.pdf>

<sup>60</sup> PSNI Statistics Branch (2019).

According to the most recent statistical bulletin, domestic abuse crimes recorded by police in Northern Ireland between April 2018 and March 2019 predominantly involved violent offences. As shown in figure 4 below, harassment constituted 10% of all offences flagged as having a domestic abuse motivation<sup>61</sup>.



**Figure 4 – Domestic abuse crimes recorded by PSNI in the year ending March 2019. Data from PSNI. All percentages are rounded.**

### 5.3.2 Victimization data

The current national victimisation survey for Northern Ireland is the Northern Ireland Safe Community Survey (NISCS), while a previous version known as the Northern Ireland Crime Survey (NICS) was in place until 2017-18. The survey includes a self-completion module on domestic abuse, in which respondents can report their experiences. Data from the domestic abuse module is published in the form of a bulletin every few years. The most recent available findings were published in 2017, and they collate data from the 2011-12 to 2015-16 NICS surveys<sup>62</sup>. Sample sizes and response rates vary between these surveys; furthermore, respondents can refuse to complete the module on domestic abuse<sup>63</sup>. The prevalence data summarised below may therefore not be representative of the general population.

The self-completion module divides domestic abuse offences into three groups: non-physical abuse, threats, and force. The non-physical abuse category loosely fits the definition of coercive and controlling behaviour adopted by the Department of Justice, and includes the following behaviours:

- Prevented from having your fair share of household money
- Stopped you from seeing friends and relatives
- Repeatedly belittled you so that you felt worthless

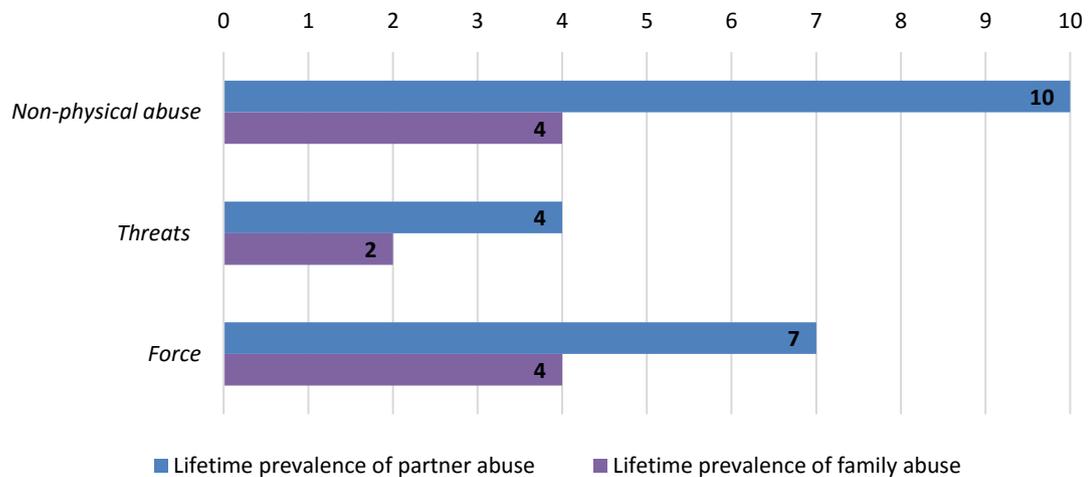
<sup>61</sup> PSNI Statistics Branch (2019).

<sup>62</sup> Campbell, P. and Rice, A. (2017). Experience of Domestic Violence: Findings from the 2011/12 to 2015/16 Northern Ireland Crime Surveys. Research and Statistical Bulletin 17/2017. Accessed June 2019 at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/experience-of-domestic-violence-findings-201112-201516-northern-ireland-crime-surveys.pdf>

<sup>63</sup> Campbell, P. and Rice, A. (2017).

- Deliberately damaged your property

The survey collects data both on partner abuse and family abuse. Data from the latest domestic abuse bulletin are summarised in figure 5 below<sup>64</sup>.



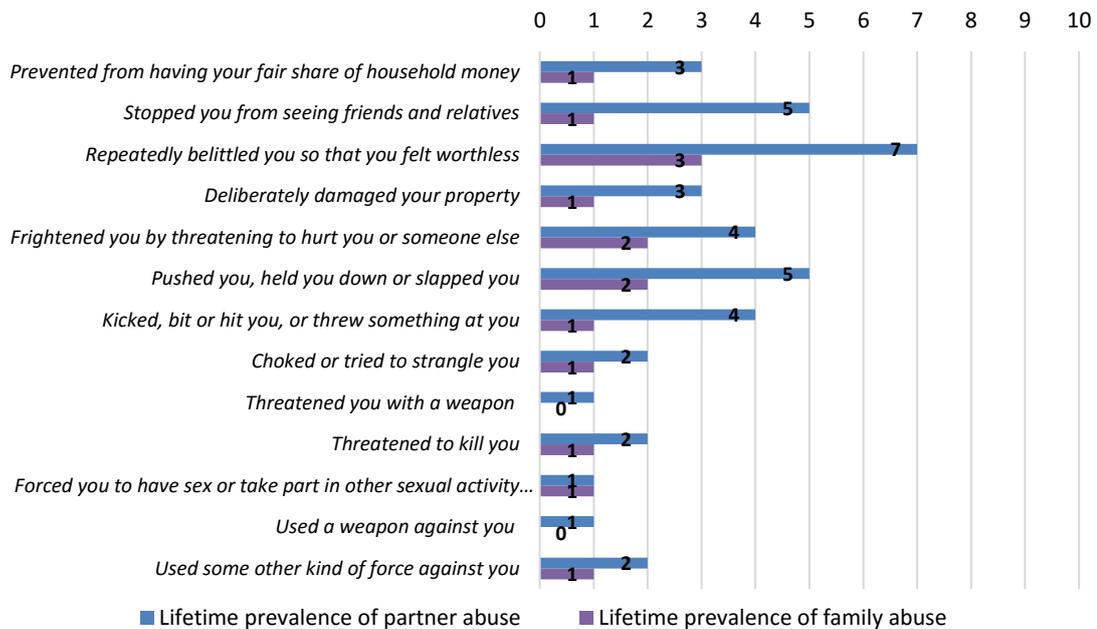
**Figure 5 - Lifetime prevalence of self-reported partner and family abuse. Data from Northern Ireland Crime Survey. All percentages are rounded.**

In the case of partner abuse, the lifetime prevalence (i.e. between the ages of 16 and 64) of non-physical abuse reported by respondents was around 10%, making it more widespread than threats or force. In the case of family abuse, non-physical abuse and force were equally prevalent<sup>65</sup>.

The specific types of abusive behaviour reported by respondents are summarised in figure 6 below. Those who suffered partner abuse reported being 'repeatedly belittled so that you felt worthless' as the most frequent type of behaviour among all offence groups, followed by being pushed, held down or slapped, and being stopped from seeing friends or relatives.

<sup>64</sup> Campbell, P. and Rice, A. (2017).

<sup>65</sup> All percentages are rounded.



**Figure 6 - Lifetime prevalence of self-reported non-physical partner and family abuse by type of behaviour. Data from Northern Ireland Crime Survey. All percentages are rounded.**

Overall, the bulletin reports that 12% of respondents had experienced at least one form of domestic abuse by a partner since age 16; however, the police had only been made aware of just over a third of those abusive episodes that respondents identified as the most serious<sup>66</sup>. Respondents were generally more likely to identify episodes of physical abuse as the most serious incident of abuse, meaning that non-physical abuse was less likely to be reported to the police.

## 6. The Republic of Ireland

The Republic of Ireland ratified the Istanbul Convention in March 2019, three years after signing it<sup>67</sup>. This section outlines: the legislation put in place to comply with article 33 of the Convention; how this fit within government-level strategy; and how non-violent domestic abuse is measured in the Republic of Ireland.

### 6.1 Legislative framework: The Domestic Violence Act 2018

Controlling or coercive behaviour was criminalised in the Republic of Ireland by section 39 of the Domestic Violence Act 2018. The Act replaced and consolidated previous domestic violence legislation, and introduced new provisions needed for Ireland's ratification of the Istanbul Convention<sup>68</sup>.

<sup>66</sup> Campbell, P. and Rice, A. (2017).

<sup>67</sup> Irish Times (2019). Government ratifies Istanbul Convention obliging it to tackle violence against women. 8 March 2019. Accessed June 2019 at <https://www.irishtimes.com/news/social-affairs/government-ratifies-istanbul-convention-obliging-it-to-tackle-violence-against-women-1.3819023>

<sup>68</sup> Explanatory and Financial Memorandum, Domestic Violence Bill 2017 (Ireland)

Section 39 describes the new offence of controlling or coercive behaviour as follows:

(1) A person commits an offence where he or she knowingly and persistently engages in behaviour that—

(a) is controlling or coercive,

(b) has a serious effect on a relevant person, and

(c) a reasonable person would consider likely to have a serious effect on a relevant person.

(2) For the purposes of subsection (1), a person's behaviour has a serious effect on a relevant person if the behaviour causes the relevant person—

(a) to fear that violence will be used against him or her, or

(b) serious alarm or distress that has a substantial adverse impact on his or her usual day-to-day activities.

(3) A person who commits an offence under subsection (1) is liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, and

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years, or both.

(4) In this section, a person is a "relevant person" in respect of another person if he or she—

(a) is the spouse or civil partner of that other person, or

(b) is not the spouse or civil partner of that other person and is not related to that other person within a prohibited degree of relationship but is or was in an intimate relationship with that other person.

The offence created in section 39 is similar to the one introduced by the Serious Crime Act 2015 in England and Wales. However, as specified in section 39(4), the Irish Act only applies to current or former partners, excluding family members, and it also applies to former partner regardless of whether they live together. In this respect, the Irish Act follows the approach of Scotland's Domestic Abuse (Scotland) Act 2018.

As is the case in both England and Wales and Scotland, the offence of controlling or coercive behaviour can be tried in either the lower or higher courts in Ireland (s.39(3)). The maximum penalties for this offence are the same as in England in Wales: in the lower courts, 12 month's imprisonment or a fine, or both; in the higher courts, up to 5 years' imprisonment or a fine, or both.

The introduction of a new offence of coercive or controlling behaviour was not part of the initial draft bill published by the Irish government<sup>69</sup>. Instead, section 39 was introduced as an amendment by the Seanad at the committee stage. The Seanad suggested the inclusion of a clearer definition of domestic abuse and the criminalisation of “coercive and controlling behaviour”<sup>70</sup>. The new offence was drafted in consultation with the Office of the Attorney General and the advice of third sector organisations<sup>71,72</sup>. Increasing prosecution rates in England and Wales were mentioned as evidence of the effectiveness of introducing a new offence of coercive or controlling behaviour<sup>73</sup>.

Before the Domestic Violence Act 2018, incidents of non-violent domestic abuse could be prosecuted as harassment under section 10 of the Non-Fatal Offences Against the Person Act 1997. However, the Act shares the same limitations of analogous harassment legislation in the UK, making it difficult to prosecute coercive or controlling behaviours in the context of an intimate relationship. Similarly, section 9 of the same Act criminalises coercion, which it defines as use of violence or intimidation, causing injury or damage, or persistently following or watching another person. This definition does not take into account coercive or controlling behaviours taking place within an intimate relationship.

## 6.2 Coercive control and government-level strategy

The current government’s strategy for the Republic of Ireland was outlined in 2016 in the *Programme for a Partnership Government*<sup>74</sup>. In the programme, the government commits to reform the law to fully implement the Istanbul Convention. While the programme does not explicitly mention the introduction of an offence of coercive control, this is a requirement under the Convention.

Specific domestic violence strategy in the Republic of Ireland is developed by the National Office for the Prevention of Domestic, Sexual and Gender-based Violence (Cosc), which is part of Department of Justice and Equality. The *Second National Strategy on Domestic, Sexual and Gender-based Violence 2016-2021*, developed before the introduction of the Domestic Violence Act 2018, briefly mentions coercive or

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<sup>69</sup> Explanatory and Financial Memorandum, Domestic Violence Bill 2017 (Ireland)

<sup>70</sup> Ireland, Seanad Éireann (2017). Domestic Violence Bill 2017: Committee Stage. Seanad Éireann debate - Wednesday, 31 May 2017. Accessed June 2019 at <https://www.oireachtas.ie/en/debates/debate/seanad/2017-05-31/12/>

<sup>71</sup> Ireland, Seanad Éireann (2017b). Domestic Violence Bill 2017 [Seanad]: Committee Stage (Resumed). Seanad Éireann debate – Tuesday, 28 November 2017. Accessed June 2019 at <https://www.oireachtas.ie/en/debates/debate/seanad/2017-11-28/22/>

<sup>72</sup> Women’s Aid (2018). Guide on the new Domestic Violence Act 2018. Accessed June 2019 at [https://www.womensaid.ie/download/pdf/womens\\_aid\\_guide\\_on\\_the\\_domestic\\_violence\\_act\\_2018.pdf](https://www.womensaid.ie/download/pdf/womens_aid_guide_on_the_domestic_violence_act_2018.pdf)

<sup>73</sup> Ireland, Seanad Éireann (2017).

<sup>74</sup> Department of the Taoiseach (2016). A Programme for a Partnership Government. Accessed June 2019 at <https://assets.gov.ie/3221/231118100655-5c803e6351b84155a21ca9fe4e64ce5a.pdf>

controlling behaviours and the need for “*consolidation and reform of domestic violence legislation*”, but does not mention plans for the creation of a specific offence<sup>75</sup>.

### 6.3 Data on non-violent domestic abuse

Unlike the UK, the Republic of Ireland does not conduct a national victimisation survey. Official crime statistics released by the Central Statistics Office (CSO) rely solely on data recorded by Irish police, An Garda Síochána<sup>76</sup>. Police-recorded crime data always needs to be viewed with caution, as it is inevitably influenced by underreporting, recording practices, and so on. However, the quality of statistics recorded by the Gardaí has been heavily criticised in recent years, bringing the CSO to suspend their publication<sup>77</sup>. The latest available crime data were published for the year 2018 ‘under reservation’, meaning that it “does not currently meet the CSO’s standards for completeness and accuracy”, and may be revised<sup>78</sup>. Even so, reported crime data for 2018 does not include domestic abuse, so it is not possible at present to provide official statistics on non-violent abuse in Ireland<sup>79</sup>. Given the recent introduction of the Domestic Violence Act 2018, it is also too soon to gather data on prosecutions and convictions of the new offence of coercive or controlling behaviour.

The National Office for the Prevention of Domestic, Sexual and Gender-based Violence (Cosc) relies on a range of statistics collected by national and international charities and other sources to establish the prevalence of domestic abuse and to guide policy<sup>80</sup>. Research by the European Union Agency for Fundamental Rights, for example, estimates that one in three Irish women report having experienced psychological abuse from a partner since the age of 15<sup>81</sup>. While the studies referenced on the Cosc website may provide a general overview of the prevalence of domestic abuse in the Republic of Ireland, their different methodologies, scopes, and timeframes mean that they cannot be used to gather a current or detailed picture of the prevalence of coercive or controlling behaviours.

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<sup>75</sup> The National Office for the Prevention of Domestic, Sexual and Gender-based Violence (2015). Second National Strategy on Domestic, Sexual and Gender-based Violence 2016-2021. Accessed June 2019 at <http://www.cosc.ie/en/COSC/Second%20National%20Strategy.pdf/Files/Second%20National%20Strategy.pdf>

<sup>76</sup> Central Statistics Office (2018). Crime and Justice. Accessed June 2019 at <https://www.cso.ie/en/statistics/crimeandjustice/>

<sup>77</sup> Central Statistics Office (2018b). Statistics Under Reservation FAQs. Accessed June 2019 at <https://www.cso.ie/en/methods/crime/statisticsunderreservationfags/>

<sup>78</sup> Central Statistics Office (2018b).

<sup>79</sup> Central Statistics Office (2018c). Recorded Crime Victims 2018. Accessed June 2019 at <https://www.cso.ie/en/releasesandpublications/ep/p-rcv/recordedcrimevictims2018/>

<sup>80</sup> The National Office for the Prevention of Domestic, Sexual and Gender-based Violence (undated). What the research tells us. Accessed June 2019 at <http://www.cosc.ie/en/COSC/Pages/WP08000146>

<sup>81</sup> European Union Agency for Fundamental Rights (FRA). (2014). Violence Against Women: An EU Wide Survey. Luxembourg: Publications Office of the European Union. Accessed June 2019 at [https://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-at-a-glance-oct14\\_en.pdf](https://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-at-a-glance-oct14_en.pdf)

## 7. Conclusion

This paper has summarised the steps taken to criminalise coercive control in the UK and the Republic of Ireland, as required by the Istanbul Convention. The different ways in which each jurisdiction defines coercive control make direct comparisons impossible. This is true of legislation, but particularly for crime statistics, which rely on different definitions, methodologies, and counting rules. Nevertheless, this paper provides a detailed overview of the development of coercive control legislation in the UK and Republic of Ireland, the different ways in which non-violent domestic abuse has been prioritised in national-level strategy, and the nature of the data used to inform reviews of policy and legislation.