



**Victorian
Aboriginal
Legal Service**



**South Eastern Australian
Aboriginal Justice Services
Limited**

ABN: 45 926 675 900

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27 November 2022

To whom it may concern,

Re: Draft National Principles to Address Coercive Control

I am writing to provide the Victorian Aboriginal Legal Service's (**VALS**) response to the public consultation on the Draft National Principles to Address Coercive Control.

VALS provides a range of legal and community justice services to people affected by family violence. We are not a specialist family violence organisation, and some of the matters in the Draft Principles lie outside our expertise. However, we have extensive experience supporting victim-survivors of family violence, in family violence matters as well as with other legal issues that may emerge from their experience of violence. We also have extensive experience in the defence of people charged with criminal offences in relation to family violence.

From that experience, we are acutely aware of the fact that Aboriginal and/or Torres Strait Islander people experience family violence at shockingly disproportionate rates. While statistics on coercive control specifically are not available in Australia, there is no reason to doubt that our people are also overrepresented as victim-survivors of this type of family violence. Despite this, our people are often poorly served by the family violence system. Access to culturally competent services is often extremely limited. Policing and justice system responses to violence too often harm, rather than help, victim-survivors.

Coercive control is a very serious form of family violence, and the Draft Principles' aim of improving government responses to it is laudable. However, this aim will only be achieved if the Draft Principles properly recognise the harms inflicted on Aboriginal and/or Torres Strait Islander people both by both family violence and by inadequate government responses to it. At present, we do not believe this is the case.

Several of the principles omit elements which are critical to fully recognising our people's experience of coercive control. For example, the 'in-depth' explanation of Principle 4 makes reference to the importance of making services culturally safe and accessible, but the principle itself and its brief background refer only to formal eligibility requirements. Principle 5 does not refer to the need for a diverse range of different lived experiences to be considered, particularly Aboriginal and/or Torres Strait Islander victim-survivors' different experience of family violence response systems. Principle 6 sets out the need for a coordinated response, but does not refer to the involvement of Aboriginal Community



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Controlled Organisations (or, analogously, specialist CALD services) which have community ties, understanding of their clients and existing service offerings.

We are most concerned by the principles relating to the criminalisation of coercive control. VALS is firmly opposed to the creation of any new offence for coercive control. In our view, civil law protections and effective family violence services are far more effective at ensuring the safety of victim-survivors, without the harmful consequences of criminalisation. While Principle 7 avoids stating that coercive control should be criminalised, it still problematically identifies this as a goal by suggesting states are “at different stages” of considering criminalisation. To our knowledge, the Victorian Government is not at any ‘stage’ of considering a new criminal offence, and VALS would not support it doing so. The language of Principle 8, similarly, identifies unintended consequences primarily as matters to be “addressed in the design and implementation” of a criminal legal response. In our view, these unintended consequences cannot be designed out and they mean that a criminal legal response should not be adopted at all. If the Principles will not adopt that position, they should at least make it very clear that unintended consequences are relevant to *whether* states decide to pursue criminalisation, not only *how* they do so.

VALS has consistently advocated on family violence and the harms that the criminal legal system inflicts on Aboriginal and/or Torres Strait Islander victim-survivors. I refer you to several VALS publications which address violence against our women and children and the way that government action too often creates, exacerbates and revisits trauma. These include, most relevantly, our Policy Paper on coercive control, published in January this year.

- [Addressing Coercive Control Without Criminalisation – Avoiding Blunt Tools that Fail Victim-Survivors](#), January 2022
- [Submission to the Inquiry into Victoria’s Criminal Justice System](#), September 2021
- [Submission to the Victorian Law Reform Commission: Improving the Response of the Justice System to Sexual Offences](#), March 2021

I would also highlight our submission earlier this year regarding the National Plan to End Violence against Women and Children 2022-2032. In that submission, VALS emphasised the need for deep engagement with Aboriginal and/or Torres Strait Islander communities and community-controlled organisations, to meaningfully address family violence against our people. Critically, all work must be grounded in [Aboriginal peoples’ right to self-determination](#), whether this work is legislative reform, policy development, service delivery or research and evaluation. Any measure to address coercive control will only help Aboriginal and/or Torres Strait Islander victim-survivors and families if it is embedded in an overall response to family violence that recognises the importance of culturally competent services, and respects the right to self-determination.



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We would also like to acknowledge that our policy work has been inspired by Aboriginal and/or Torres Strait Islander people who have led public discourse on this issue on social media and other forums. Particularly we would like to acknowledge the contributions of Professor Chelsea Watego, Nayuka Gorrie, Dr Amanda Porter, Alison Whittaker, and Amy McQuire. We recommend that the consultation on the Principles should engage with their work on coercive control and the harms of criminalisation in a meaningful way.

Thank you for considering our submission, which addresses issues that could not be effectively raised through the survey. I have attached a response from VALS to relevant survey questions below as requested. If you wish to discuss these issues further, please contact VALS' Head of Policy, Communications and Strategy, Patrick Cook, at pcook@vals.org.au or on 0417 003 910.

Yours sincerely,

Nerita Waight
CEO



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ATTACHMENT A: Survey Response

Are you responding to this survey as an individual or on behalf of your organisation? –

Organisation

Name of organisation – Victorian Aboriginal Legal Service

Category – Legal sector

Where is your organisation based – Victoria

Please indicate your level of agreement with the following statements:

The draft National Principles effectively describe the common features of coercive control. – Agree

The draft National Principles effectively describe the impacts of coercive control. – Agree

The draft National Principles effectively describe the key issues associated with a lack of understanding of coercive control. – Agree

The draft National Principles effectively describe the impact of discrimination and inequality in the context of coercive control. – Disagree

The draft National Principles effectively describe the importance of listening to and working with victim-survivors of family and domestic violence. – Disagree

The draft National Principles effectively describe the key elements needed to effectively address coercive control. - Agree

The draft National Principles effectively describe the key issues to consider when deciding whether or how to criminalise coercive control. – Disagree

The draft National Principles effectively describe the potential unintended consequences of criminalisation. – Disagree

The draft National Principles are inclusive of a diverse range of experiences and voices. - Disagree