

September 2025

Does Scots Law Have a Definition
of Coercive Control: and Does It
Need One?

Not really... and Perhaps.

- It is talked about a lot; but does not really appear in legislation.
- It at least overlaps with other concepts in legislation, however.
- Is that enough?

Why Am I Asking?

- Domestic Abuse (Scotland) Act 2018- came into force 1 April 2019.

Humza Yousaf (Justice Secretary):

“The Domestic Abuse Act makes absolutely clear that coercive and controlling behaviour is domestic abuse and a crime.”

Why Am I Asking?

Assistant Chief Constable Gillian MacDonald, Crime and Protection lead for Police Scotland, said:

“Coercive and controlling behaviour can have the most profound, damaging and long-lasting effects on individuals and on our society.

This new offence is groundbreaking. For the first time it will allow us to investigate and report the full circumstances of an abusive relationship. We will be able to include evidence of coercive and controlling behaviour where it forms a pattern of abuse, often carried out alongside other insidious behaviour, including physical and sexual abuse.”

'Coercive Control'

Scottish Act does not use the term, or 'controlling or coercive behaviour' (as in E&W). Domestic Abuse (S) Act 2018:

1 Abusive behaviour towards partner or ex-partner

(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.

Abusive Behaviour

(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.

(3) In the further conditions, the references to psychological harm include fear, alarm and distress.

Abusive Behaviour

2 What constitutes abusive behaviour (cont.)

(2) Behaviour which is abusive of B includes (in particular)—

(a) behaviour directed at B that is violent [including sexual violence], threatening or intimidating,

(b) behaviour directed at B, at a child of B or at another person that either—

(i) has as its purpose (or among its purposes) one or more of the relevant effects set out in subsection (3), or

(ii) would be considered by a reasonable person to be likely to have one or more of the relevant effects set out in subsection (3).

Abusive Behaviour

2 What constitutes abusive behaviour (cont.)

(3) The relevant effects are of—

- (a) making B dependent on, or subordinate to, A,
- (b) isolating B from friends, relatives or other sources of support,
- (c) controlling, regulating or monitoring B's day-to-day activities,
- (d) depriving B of, or restricting B's, freedom of action,
- (e) frightening, humiliating, degrading or punishing B.

Abusive Behaviour

- The criminal law limits the relationships within which such behaviour constitutes an offence to those of partner/ ex-partner.
- It requires there to be an intention to cause harm, or recklessness as to that outcome.
- As far 'coercive control' is concerned, the behaviour has to be aimed at having one of the listed effects.

Adult Support & Protection (S) Act 2007

s.3 Adults at risk

(1) “Adults at risk” are adults who—

(a) are unable to safeguard their own well-being, property, rights or other interests,

(b) are at risk of harm, and

(c) because they are affected by disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed than adults who are not so affected.

Adults at Risk

s.3 Adults at risk (cont.)

(2) An adult is at risk of harm for the purposes of subsection

(1) if—

(a) another person's conduct is causing (or is likely to cause)

the adult to be harmed, or

(b) the adult is engaging (or is likely to engage) in conduct

which causes (or is likely to cause) self-harm.

Adults at Risk

S.53 Interpretation

“harm” includes all harmful conduct and, in particular, includes—

- (a) conduct which causes physical harm,
- (b) conduct which causes psychological harm (for example: by causing fear, alarm or distress),
- (c) unlawful conduct which appropriates or adversely affects property, rights or interests (for example: theft, fraud, embezzlement or extortion),
- (d) conduct which causes self-harm.

‘Unable to Safeguard’

Adult Support and Protection (Scotland) Act 2007: Code of Practice 2022 (statutory guidance), p.99:

“Coercive Control: A pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.”

Referred to in the context of the distinction between and adult being unwilling and unable to protect themselves (and being susceptible to financial harm).

‘Unable to Safeguard’

Adult Support and Protection (Scotland) Act 2007: Code of Practice (statutory guidance), pp.15-16:

“A distinction may therefore be drawn between an adult who ... is ... unable to safeguard themselves, and one who is deemed to have the power, ability or authority to safeguard themselves, but who is apparently unwilling to do so.

Note: An adult who is considered unwilling to safeguard themselves, rather than unable to safeguard themselves, may not be considered an adult at risk.

‘Unable to Safeguard’

Adult Support and Protection (Scotland) Act 2007: Code of Practice (statutory guidance), pp.15-16 (cont.):

“This distinction requires careful consideration. All adults who have capacity have the right to make their own choices about their lives and these choices should be respected if they are made freely. However, for many people the effects of trauma and/or adverse childhood experiences may impact upon both their ability to make and action decisions, and the type of choices they appear to make. In this context it is reasonable to envisage situations in which these experiences, and the cumulative impact of them through life, may very well have rendered some people effectively unable, through reliable decision making or action, to safeguard themselves.”

‘Unable to Safeguard’

Adult Support and Protection (Scotland) Act 2007: Code of Practice (statutory guidance), pp.15-16 (cont.):

“Similar considerations apply to **coercive control** or **undue pressure**. In such situations the control exercised over a vulnerable person may also effectively render them unable to take or action decisions that would protect them from harm.”

Protection Orders and Consent

35 Consent of adult at risk

- (1) The sheriff must not make a protection order if the sheriff knows that the affected adult at risk has refused to consent to the granting of the order.

- (2) A person must not take any action for the purposes of carrying out or enforcing a protection order if the person knows that the affected adult at risk has refused to consent to the action.

s.35 Consent of adult at risk (cont.)

- (3) Despite subsections (1) and (2), a refusal to consent may be ignored if the sheriff or person reasonably believes—
- (a) that the affected adult at risk has been **unduly pressurised** to refuse consent, and
 - (b) that there are no steps which could reasonably be taken with the adult's consent which would protect the adult from the harm which the order or action is intended to prevent.

'Undue Pressure'

s.35 Consent of adult at risk (cont.)

(4) An adult at risk may be considered to have been unduly pressurised to refuse to consent to the granting of an order or the taking of an action if it appears—

(a) that harm which the order or action is intended to prevent is being, or is likely to be, inflicted by a person in whom the adult at risk has confidence and trust, and

(b) that the adult at risk would consent if the adult did not have confidence and trust in that person.

(5) Subsection (4) does not affect the generality of subsection (3).

Adult Support & Protection (S) Act 2007

s.3 Adults at risk

(1) “Adults at risk” are adults who—

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Adult Support & Protection (S) Act 2007

- 'Harm' may be inflicted by any person.
- Intention behind the behaviour is irrelevant.
- Leads to investigation and (ideally) support/ protection-
not criminal consequences.

'Coercive Control'

- The focus of the criminal law is different to adult protection legislation- e.g. in Scotland all partners/ ex-partners may be guilty of the offence; no specific impact on the 'victim' needs to be demonstrated.
- In criminal law definitions need to be more precise; but adult protection legislation can (should?) afford more discretion to professionals to interpret terms.

'Coercive Control'

- The definition of 'harm' in the 2007 Act seems wide enough to encompass 'coercive control', without having to refer to it by name.
- Likewise, 'unable to safeguard' would appear potentially to include 'coercive control' situations.
- 'Undue pressure' could encompass a wide range of controlling behaviours; but is only relevant to consent to protection orders.

'Coercive Control'

- However, the remainder of the definition of an 'adult at risk' may exclude a significant number who do not have a condition rendering them less able to protect their own interests.
- There will be a section of the population who could be subject to coercive control but covered by neither set of provisions. Would a better or more consistent definition of coercive control be a step towards addressing this?