3.1 Section 76 of the Serious Crime Act 2015 - Controlling or Coercive Behaviour in an Intimate or Family Relationship

Section 76 of the Serious Crime Act 2015 created a new offence of controlling or coercive behaviour in an intimate or family relationship. Prior to the introduction of this offence, case law indicated the difficulty in proving a pattern of behaviour amounting to harassment within an intimate relationship (the Statutory Guidance cites the following cases - *Curtis* [2010] EWCA Crim 123 and *Widdows* [2011] EWCA Crim 1500).

The new offence, which does not have retrospective effect, came into force on 29 December 2015.

An offence is committed by A if:

* A repeatedly or continuously engages in behaviour towards another person, B, that is controlling or coercive; and
* At time of the behaviour, A and B are personally connected; and
* The behaviour has a serious effect on B; and
* A knows or ought to know that the behaviour will have a serious effect on B.

A and B are 'personally connected' if:

* they are in an intimate personal relationship; or
* they live together and are either members of the same family; or
* they live together have previously been in an intimate personal relationship with each other.

There are two ways in which it can be proved that A's behaviour has a 'serious effect' on B:

* If it causes B to fear, on at least two occasions, that violence will be used against them - s.76 (4)(a); or
* If it causes B serious alarm or distress which has a substantial adverse effect on their day-to-day activities - s.76 (4) (b).

For the purposes of this offence, behaviour must be engaged in 'repeatedly' or 'continuously'. Another, separate, element of the offence is that it must have a 'serious effect' on someone and one way of proving this is that it causes someone to fear, on at least two occasions, that violence will be used against them. There is no specific requirement in the Act that the activity should be of the same nature. The prosecution should be able to show that there was intent to control or coerce someone.

The phrase 'substantial adverse effect on Bs usual day-to-day activities' may include, but is not limited to:

* Stopping or changing the way someone socialises
* Physical or mental health deterioration
* A change in routine at home including those associated with mealtimes or household chores
* Attendance record at school
* Putting in place measures at home to safeguard themselves or their children
* Changes to work patterns, employment status or routes to work

For the purposes of the offence A 'ought to know' that which a reasonable person in possession of the same information would know - s.76 (5).

A person guilty of an offence under this section is liable:

* On conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both;
* On summary conviction, to imprisonment for a term not exceeding 6 months, or a fine, or both.

Prosecutors are reminded that:

* For an either way offence, it is not necessary for the last incident to have occurred within the previous six months;
* Offending within a domestic abuse context is an aggravating factor because of the abuse of trust involved;
* Appropriate ancillary orders can be applied for upon sentence or acquittal e.g. restraining orders. Prosecutors should liaise with the police to seek the views of the victim before an application is made.

Controlling or coercive behaviour towards another can include or be committed in conjunction with a range of other offences including offences under: the Malicious Communications Act 1998; the Sexual Offences Act 2003; and the Offences Against the Person Act 1861. See the [Home Office Statutory Guidance](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/482528/Controlling_or_coercive_behaviour_-_statutory_guidance.pdf) and [CPS Domestic Abuse Legal Guidance](http://www.cps.gov.uk/legal/d_to_g/domestic_abuse_guidelines_for_prosecutors/#a92) for examples offences that might apply to domestic abuse.

3.2 Relevant Behaviours

Prosecutors are advised that a pattern of controlling or coercive behaviour can be well established before a single incident is reported. In many cases the conduct might seem innocent - especially if considered in isolation of other incidents - and the victim may not be aware of, or be ready to acknowledge, abusive behaviour. The consideration of the cumulative impact of controlling or coercive behaviour and the pattern of behaviour within the context of the relationship is crucial. This approach will support the prosecutor to effectively assess whether a pattern of behaviour amounts to fear that violence will be carried out; or serious alarm or distress leading to a substantial adverse effect on usual day-to-day activities.

Further assistance can be obtained from the [Statutory Guidance](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/482528/Controlling_or_coercive_behaviour_-_statutory_guidance.pdf) published by the Home Office pursuant to section 77(1) of the Serious Crime Act 2015.

Building on examples within the Statutory Guidance, relevant behaviour of the perpetrator can include:

* Isolating a person from their friends and family
* Depriving them of their basic needs
* Monitoring their time
* Monitoring a person via online communication tools or using spyware
* Taking control over aspects of their everyday life, such as where they can go, who they can see, what to wear and when they can sleep
* Depriving them access to support services, such as specialist support or medical services
* Repeatedly putting them down such as telling them they are worthless
* Enforcing rules and activity which humiliate, degrade or dehumanise the victim
* Forcing the victim to take part in criminal activity such as shoplifting, neglect or abuse of children to encourage self-blame and prevent disclosure to authorities
* Financial abuse including control of finances, such as only allowing a person a punitive allowance
* Control ability to go to school or place of study
* Taking wages, benefits or allowances
* Threats to hurt or kill
* Threats to harm a child
* Threats to reveal or publish private information (e.g. threatening to 'out' someone)
* Threats to hurt or physically harming a family pet
* Assault
* Criminal damage (such as destruction of household goods)
* Preventing a person from having access to transport or from working
* Preventing a person from being able to attend school, college or University
* Family 'dishonour'
* Reputational damage
* Disclosure of sexual orientation
* Disclosure of HIV status or other medical condition without consent
* Limiting access to family, friends and finances

This is not an exhaustive list and prosecutors should be aware that a perpetrator will often tailor the conduct to the victim, and that this conduct can vary to a high degree from one person to the next. It will be open to the courts to consider acts by a defendant and to conclude whether those acts constitute criminal behaviour.