

**Kempsey Nambucca CLSD Program meeting**  
**13 December 2023, 10.00am – 12.00pm, Kempsey Library, Kempsey**

**MINUTES**

**Attendees:** Seema Sanghi, Legal Aid NSW; Leiann Vicars, Co-operative Legal Services Delivery Program; Miranda Abbotts, Mission Australia; Emma Smallwood, Legal Aid NSW; Stacey Kelly-Greenup, Dhulawang AC; Colleen Lardner, Dhulawang AC; Andrea Davidson, YP Space; Meggie Molony, Mid North Coast Legal Centre; Belinda Horne, Disability Advocacy; Lisa Carmady, Kempsey Families; Julie Wright, Kempsey Families; Jordan Dolezal, Kempsey Families; Vince Nicholls, New South Wales Police Force; Katherine Yager, Dhulawang AC; Anna Davidson, Dhulawang AC; Lisa Storm, Dhulawang AC.

**Apologies:** Roger Bosmans, Youth Worker (South Kempsey); Pete Carnaby, Disability Advocacy; Michelle Hannon, Gilbert & Tobin; Anne Cregan, Gilbert and Tobin; Jo Kelly, Kinchela Boys Home Aboriginal Corporation; Emma McGuire, Mid Coast Tenants Advice & Advocacy Service; Rebekah Elsley, Community Housing.

Agenda item	Discussion	Action/Outcome
<b>1. Opening and purpose</b>	<p>Leiann acknowledged this meeting took place on the lands of the Dunghutti people and welcomed everyone to the meeting.</p> <p>The purpose of the meeting was to:</p> <ul style="list-style-type: none"> <li>• Provide information and current data to partners about coercion and control.</li> <li>• Hear from guest speakers and partners about coercion and control being experienced by clients.</li> <li>• Engage in Q&amp;A session.</li> <li>• Discuss referral pathways to specialist and legal services.</li> </ul>	
<b>2. Presenters</b>	<p><b>Seema Sanghi – CLSD Programs Co-ordinator, Legal Aid NSW</b></p> <p>Seema is the CLSD Programs Co-ordinator at Legal Aid NSW and presented data for the Kempsey-Nambucca - Coffs Harbour CLSD region.</p>	

The data covered population statistics and, in particular, focussed on statistics for Apprehended Domestic Violence Orders (ADVO's) for the past five years to June 2022 (with an increasing trend) and ADVOs issued against adult Aboriginal and non-Aboriginal female defendants in local courts.

The proportion of orders made in Kempsey against Aboriginal women is disproportionately high, which raises questions about misidentification of perpetrators and potential criminalisation of primary victims of domestic violence.

Legal Aid is available for Aboriginal women to defend an ADVO – Emma Smallwood says they are seeing these cases. The connection with the issue of coercive conduct is how misidentification of the perpetrator of domestic violence may play out under new law.

#### **Inspector Vince Nicholls, New South Wales Police Force**

Inspector Vince Nicholls affirmed that Family and Domestic Violence (FDV) is the number one priority for police across the Kempsey region.

FDV incidents are being reviewed every day by Vince and his DVLOs and he will instruct officers to charge perpetrators if there is enough evidence to do so.

If there is behaviour that is of concern for police in relation to the victim, police will take out an ADVO – which is a part of the explanation for an increase in ADVO statistics.

All police attending FDV incidents wear body cameras to capture evidence – can be used to support ADVOs and prosecution.

Where there is intimidation or terrorising, this is a FDV offence and police will take action if there is evidence.

Julie Wright: what if there is no evidence e.g. no witnesses to incident?

Vince: Are the victims disclosing their situation to others that police can speak with, for instance, neighbour's CCTV? Police can only act on evidence given to them.

No contact ADVOs – camera evidence is needed of perpetrators turning up/making contact – services cannot afford the tech though and neither can victims.

Case: woman was being chased and intimidated but apparently has no evidence even though she was running to the police station - she has been told she has breached her ADVO based on the other's dashcam:

- note, dashcam can be seen as a deterrent
- motion-activated cameras, either the victim's or a neighbour's, can be used.

Vince – in addition, if there is an issue where CLSD partners believe police were not taking appropriate action, call **0447484856** (similar to Insp. Martin Bourke who has attended earlier CSLD meetings, and has followed up with several people as a result of his sharing his contact details)

Victim needs to get an event number, each time it is a new incident. Every time police attend an incident they need to make a record on the database. If a matter turns into a case where there is further information needed, the matter can be connected to the event number.

Be sure to give victim notification cards (all events linked to their profile). Also, check any unusual spelling of name/s in case they are not connected (number relates to both victim and perpetrator).

Anna Davidson raised the issue of misidentification - mischaracterisation of violence is being weaponised against victims. Perpetrator can know where victim is all the time – he has put something in her phone or on her car, is using children to communicate about where their mother is and what she is doing, fake profiles on FB to befriend the victim, snapchat, 360 live tracks movements, children being tracked via devices, accessing text messages live from other's phone.

Drones are also being used by perpetrators. Partners should ask their client/victim if they have seen them in the yard. Also, toys such as collars for toy dogs are being used for tracking.

Anna will share a resource for a national program around electronic stalking where women can get their phone swept.

Anna to provide resource on electronic stalking and national program.

Victims need to be educated to understand what is on their devices and how to check if they are being located. This is complicated when 360 has been for family use but now parents are separated, and this has not been changed.

The new coercion legislation comes into effect in early and mid-2024 and will involve a lot of work for police. The question for them will be how to sift through victim/perpetrator stories and witness statements, CCTV, devices etc. They will need to establish the pattern of behaviour, not just events, and will be physical and non-physical i.e. so not necessarily visible.

Apps will be available for women to record behaviour i.e. collect evidence.

Miranda Abbotts: How can the services be involved – can their case notes be used? Can people be taught to collect evidence? Is training or a fact sheet available?

Legal Aid has an internal working group so they can look at this, perhaps the women's legal services have something already. Sarah Dahlenberg at Mid North Coast Legal Service could also be a good resource (for people and services to support their clients – and to understand what the police need in order to take legal action).

Once the legislation is in place, there will be a media campaign about the signs to recognise behaviour.

It is recognised that a culture shift is needed:

- Community corrections do case management and set conditions for behaviour change.
- Police need to better understand impacts of legislation by June – may potentially speak at a later CLSD meeting.
- There are a number of legal referral pathways – Mid North Coast Legal Service, Legal Aid NSW, Aboriginal Legal Service, Many Rivers.
- All can be building knowledge now.

Legislation is not retrospective, that is, it cannot show behaviour and established patterns before the date of legislation.

Note, Wales and England have already developed this legislation so we can explore and learn from this – there are difficulties proving intention and the burden of proof.

Vince notes that kinship in Aboriginal families is another reason for a higher number of ADVOs against Aboriginal women – there is a broader definition of family for Aboriginal people.

A family or domestic relationship may include married or defacto, intimate personal relationship, people living in the same household, a long-term resident in a residential facility, paid/unpaid care, relative and the extended family of an Aboriginal and Torres Strait Islander person (intimate not always sexual and vice versa).

### **Morning Tea Break**

#### **Katherine Yager, Dhulawang Aboriginal Corporation**

Katherine is a Family Dispute Resolution mediator and works at Dhulawang Aboriginal Corporation in Kempsey, including to train new dispute resolution mediators.

NSW has now finalised legislation which is to come into effect in February and July 2024 in relation to criminalising coercive control - this is the ***Crimes Legislation Amendment (coercive control) Act 2022***. The effect of is to make coercive control in the context of current and former intimate partner relationships an offence.

Definition of coercive control: According to the legislation, coercive control is a pattern of abusive behaviour used to exert control over someone else – examples include the following:

- Control and/or monitor access to money – this can include controlling the ability to earn money as well as what the person can spend money on.
- Isolating the person from their own family or friends.
- Controlling what a partner eats, wears or does.
- Controlling who a partner is allowed to see or spend time with.
- Preventing a partner from accessing support.
- Engaging in 'gaslighting' behaviour.

- Monitoring a partner's behaviour - either online or in person.
- Tracking a partner - for example using phone or car or other technological devices.
- Emotionally or physically threatening or intimidating a partner or to disclose information about a partner publicly.
- Humiliating or degrading a partner or repeatedly putting them down, making them feel fearful or scared of non-compliance.

According to the Australian Institute of Family Studies, "coercive control is almost always an underlying dynamic of family and domestic violence".

Often clients describe behaviours of their partners (or ex-partners) that fit into several of the categories of behaviour that would be considered to be coercive control. A combination of the behaviours referred to above are present, but often not overtly and sometimes the frequency and number of ways the control is exerted increases over time.

Not always, but often, people describe patterns of behaviour that are linked with certain events such as birth of a child, leave from work to care for a new or sick child, and/or relocating which seen in isolation are not necessarily events that are abusive in themselves, but when coercive control is present these events are used as a way, or an excuse to isolate one party from their family and friends.

This does not mean that when these events happen, particularly at the same time, that there is coercive control in existence - when people are seeking professional services and look back at their relationship, it may be the first time they are able to see a pattern where these events and controlling or coercive behaviours linked with them are actually added to and increased overtime.

It is often a number of years before a person may realise their relationship has been unhealthy and they have become more controlled in more ways over that period of time.

Consider the ways that change can occur:

- Greater awareness of the different forms of domestic and family violence.
- More education in different sectors about the forms and effects of violence, particularly coercive control which is not measured by the existence of physical evidence.

	<ul style="list-style-type: none"> <li>• Strategic plans both state-based and federally will lead to greater training for responders or people to whom violence is reported and support for survivors and education to perpetrators to end the cycles of violence in our communities.</li> <li>• Awareness and change now can help prevent the cycle in future generations.</li> <li>• Earlier intervention because of the law changes and the increased awareness of all forms of family and domestic violence.</li> <li>• Better responses for survivors and more recovery and healing.</li> </ul> <p>Some concerns about the legislation:</p> <ul style="list-style-type: none"> <li>• It will be difficult to prove <b>beyond reasonable doubt</b> in cases.</li> <li>• There is a defence in the legislature that may be mis-used.</li> <li>• The legislation may be incorrectly used to try and prove - or disprove - the existence of this type of violence.</li> <li>• It will take a number of years before there are convictions because the law is not retrospective - in other words the pattern of behaviour will need to be from the time the legislation starts and so all the behaviours that have been controlling up until July 2024 will not be considered in the evidence.</li> <li>• Because of the way that coercive control can occur repeatedly, it can start in a subtle way, but continues or increases over a long period of time. Sometimes this may mean the behaviours are difficult to identify and measure. One of the concerns is how and when people recognise these non-physical forms of violence, or controlling behaviours and recognising when it is coercive control.</li> <li>• How is coercive control is going to be measured in terms of the law and how are the defences going to used and tested.</li> <li>• People experiencing coercive control may be less inclined to report and may be less able (due to the controlling behaviours of their partners, or ex-partners) to be able to report.</li> </ul> <p><b>Meeting closed.</b></p>	
<b>3. Next meeting</b>	Tuesday, 27 February 2024	

