**Overview of the law on CONTROLLING OR COERCIVE BEHAVIOUR IN AN INTIMATE OR FAMILY RELATIONSHIP**

New legislation has been introduced in respect of Controlling and Coercive Behaviour. On **29th December 2015**, section 76 of the Serious Crime Act 2015 comes into force. It is not retrospective. It is an either way offence that carries a maximum of 5 years imprisonment.

The new law needs to be distinguished from the Stalking/Harassment legislation. It deals specifically with behaviour during an ‘ongoing relationship.’ Once that relationship ends and if the behaviour continues, the Stalking/Harassment legislation may become relevant.

The Government definition outlines that:

* Coercive behaviour*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*
* Controlling behaviour*is 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*

**Section 76 (1) Serious Crime Act 2015** provides that an offence is committed by A if:

A person (A) commits an offence if-

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

**Note**: B must be over 16.

S.76(2) A and B are ‘**personally connected’** if-

1. A is in an intimate personal relationship with B; **or**
2. A and B live together and
   1. They are members of the same family;
   2. they have previously been in an intimate personal relationship with each other.

S.76(4) A’s behaviour has a *‘***serious effect’** on B if-

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

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 B’s 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.

**Relevant Behaviours**   
  
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.

Therefore it is important to examine not only the perpetrator’s behaviour, the impact it has had on the victim and address how that will be evidenced.

**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 you 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.