

Domestic Abuse Scotland

Summary of how the offence works

The offence is committed when three conditions are met. If any of the three conditions are not met, the offence is not committed.

Condition one

Person A engages in a course of behaviour which is abusive of A's partner or ex-partner ("B").

Condition two

A reasonable person would consider that the course of behaviour would be likely to cause B to suffer physical or psychological harm.

Condition three

Person A either intends by the course of behaviour to cause B to suffer physical or psychological harm, or is reckless as to whether the course of behaviour causes B to suffer physical or psychological harm.

Further information

What behaviour is abusive?

Behaviour which is abusive of B includes:

- behaviour directed at B that is violent (either sexual violence or physical violence),
- behaviour directed at B that is threatening or intimidating,
- behaviour directed at B or any other person that:
 - has as its purpose (or one of its purposes) or that a reasonable person would consider would be likely to have one or more of the following effects:
 - **making B dependent on, or subordinate to, A**
 - **making B isolated from friends, relatives or other sources of support,**
 - **controlling, regulating or monitoring the day-to-day activities of B,**
 - **making B feel frightened, humiliated or degraded, or**
 - **punishing B.**

The list of abusive behaviour is a non-exhaustive list and other behaviour can be considered abusive by the court even though it may not be on this list. This would be a matter for the court to determine in any given case.

The list of effects on B (highlighted in **bold** to the left for emphasis) that the behaviour would give rise to is exhaustive; however, it has been carefully framed to encompass the many specific examples that have been provided to us of the effects which coercive control may have on B.

The behaviour can be of any kind including:

- saying or otherwise communicating something as well as doing something,
- failing to say or otherwise communicate, or do, something where that failure is intentional.

This is a non-exhaustive list and other kinds of behaviour can be accepted by the court in any given case.

What is a course of behaviour

A course of behaviour involves behaviour that has taken place on at least two occasions.

Who is a partner or ex-partner

A person is A's partner if they are:

- spouses or civil partners of each other,
- living together as if spouses or civil partners of each other, or
- in an intimate personal relationship with each other.

Reference to A's ex-partner is to be construed accordingly e.g. if A used to be a spouse or civil partner of B, they are an ex-partner.

Does B need to have suffered harm?

It is irrelevant whether in fact B did suffer physical or psychological harm from the course of behaviour. This is an objective test where the court must be satisfied that a reasonable person would consider the course of behaviour would be likely to cause the harm described to person B.

Psychological harm includes, but is not limited to, fear, alarm and distress.

Defence to the offence

It is a defence for person A to show that the course of behaviour was, in the particular circumstances, reasonable.

Domestic Abuse phonenumber:

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