

Hon Kyam Maher MLC
Attorney-General
Karna Country
Via LLPSubmissions@sa.gov.au

Ref: A1176081

20 September 2023

Dear Attorney-General

Thank you for your letter of 14 August 2023 inviting Embolden, the peak body for domestic, family and sexual violence services in South Australia, to provide feedback on the draft Criminal Law Consolidation (Section 20A) Amendment Bill 2023 (the Bill).

Embolden notes the findings of the review into the effectiveness of the Section 20A offence since its commencement, including consideration of the operation and outcomes to date of relevant offences in other states and territories.

Embolden supports the intent of the Bill; that is, that the establishment of an offence under Section 20A not require evidence of hindering or restriction of breath, in line with medical advice about the inherent dangers of applying pressure to a person's neck. In our view, recognition within the CLCA of the inherent dangers of applying pressure to someone's neck is important. We are aware of the emerging evidence that these behaviours are increasingly common in sexual interactions, including among young people, and are often non-consensual.

Additionally, we note the review's observation that the current approach in South Australia, which requires proof of restriction of breath, has likely contributed to a lack of charges proceeding in relation to this offence. It is hoped that effectively reducing the burden of evidence will result in better criminal justice outcomes for victim-survivors, strengthening the effectiveness of the offence in holding perpetrators of this type of gendered violence to account.

While Embolden supports the intent of the Bill, we recognise that there may be legal considerations in relation to the proposed amendment; for example, whether the specific terms in the Bill are adequately defined.

Finally, we advocate that a review of outcomes arising from any changes to the offence is conducted in due course, and that the review considers direct information from victim-survivors on their experiences.

Thank you again for the opportunity for Embolden to comment on the draft Bill.

Kind regards,



Maria Hagias

Susie Smith

Co-Chairs of the Board of Embolden