

Criminal Justice Committee
Wednesday 21 May 2025
16th Meeting, 2025 (Session 6)

Non-Fatal Strangulation

Note by the clerk

Introduction

1. The Committee agreed at its meeting on 23 April 2025 to hold a one-off session on the issue on non-fatal strangulation (NFS). At today's meeting, the Committee will also consider [Petition PE2136](#) which calls on the Scottish Parliament to urge the Scottish Government to make NFS a standalone criminal offence in Scotland.
2. The Citizen Participation and Public Petitions Committee referred the petition to the Criminal Justice Committee at their meeting on 23 April 2025.
3. Strangulation is the "obstruction or compression of blood vessels and/or airways by external pressure to the neck impeding normal breathing or circulation of the blood". NFS is "where such strangulation has not directly caused the death of the victims". (Institute for Addressing Strangulation)
4. NFS is not currently a standalone offence in Scotland and is prosecuted under a range of offences. Since June 2022, NFS has been a standalone offence in England and Wales. More recently, legislation in Northern Ireland creating a new offence of NFS came into effect in June 2023.
5. As the current legislation in Scotland sees the behaviour of NFS included under a range of offences, data on the number of offences which have included an element of NFS is not readily available.
6. Members may wish to note that in its 2025-26 Programme for Government, the Scottish Government committed to:
 - Carry out a comprehensive assessment of the law in relation to non-fatal strangulation to determine if there is further action that needs to be taken beyond existing provisions in law that could be used to tackle this issue.

Evidence

7. At today's meeting, the Committee will take evidence from—

Panel 1

- Fiona Drouet, Petitioner and CEO and Founder, EmilyTest
- Fiona McMullen, Operations Manager, Assist
- Professor Cath White, Medical Director, Institute for Addressing Strangulation

Panel 2

- Dr Emma Forbes, Crown Office and Procurator Fiscal Service
- Detective Chief Superintendent Sarah Taylor, Head of Public Protection, Police Scotland
- Stuart Munro, Convener of the Criminal Law Committee, Law Society of Scotland
- Detective Superintendent Lindsay Fisher, Police Service of Northern Ireland (**attending remotely**)

8. The following individuals and organisations have provided written evidence—

- Police Scotland
- Crown Office and Procurator Fiscal Service
- The Law Society of Scotland
- The Institute for Addressing Strangulation

9. Please see **Annexe A** for details of the written evidence.

Actions

10. Members are invited to discuss the evidence heard at today's meeting.

11. As a follow-up, Members may wish to invite the Scottish Government to reflect on the evidence taken at today's meeting and to ask if they have any plans to make non-fatal strangulation a standalone offence in Scotland after the comprehensive assessment referred to above.

12. Additionally, members are invited to agree to keep the petition open until such time they can consider the Scottish Government's response.

Clerks to the Criminal Justice Committee

May 2025

ANNEXE A – WRITTEN SUBMISSIONS FROM WITNESSES

Submission from Dr Emma Forbes, National Lead for Domestic Abuse, Crown Office and Procurator Fiscal

Non-Fatal Strangulation (NFS)

COPFS recognises and shares concern about the prevalence of non-fatal strangulation, especially amongst young people, that has been highlighted both within Parliament by Michelle Thomson and by Fiona Drouet in her petition to Parliament.

COPFS and the Law Officers are committed to the robust and meticulous prosecution of reports of offending that comprise non-fatal strangulation and can reassure the committee that the current legal provision in Scotland enables effective prosecution of non-fatal strangulation.

COPFS recognises deficiencies in the ability to ‘count’ cases including non-fatal strangulation; this coupled with research figures that show increased prevalence and under-reporting cause concern. A justice-wide understanding of reported cases of non-fatal strangulation, and what is meant by non-fatal strangulation, is urgently needed.

Current position of Non-fatal Strangulation within Scots Law

In Scotland, non-fatal strangulation is recognised by prosecutors as criminal conduct. Unlike other jurisdictions, the decision to prosecute using the common law and existing legislation is not contingent on injury or harm. Non-fatal strangulation can be prosecuted in several ways. The offence libelled will depend on the facts and circumstances of the allegation. Examples of offences that might be libelled include assault; culpable and reckless conduct; attempted murder; contraventions of the Sexual Offences (Scotland) Act 2009; and contraventions of section 1 of the Domestic Abuse (Scotland) Act 2018 (DASA), where the offending is against a partner or ex-partner. The law additionally allows the offence to be libelled as being aggravated; to injury, impairment, or disfigurement where appropriate. Currently, the law provides the court with an unlimited sentencing power where the offence is prosecuted as a common law offence and a maximum sentence of 14 years when prosecuted as part of a DASA charge. It should be recognised that in Scotland, the existing law allows for the robust prosecution of non-fatal strangulation.

It is important to understand that there are four key distinctions between Scotland and other jurisdictions like England and Wales, Northern Ireland and Ireland: first, the introduction of a stand-alone offence elsewhere was due to the fact that these jurisdictions did not have existing offences that could be used to effectively and

appropriately prosecute non-fatal strangulation, where there was no visible injury, as they were restricted to minor offences with limited sentencing powers; second, no other jurisdiction has an offence equivocal to s1 of DASA; third, these other jurisdictions have a defence of consent in some contexts; and, fourth, the current legal framework in Scotland allows for a higher maximum sentence (unlimited sentencing for common law offences and 14 years on indictment for contraventions of the Domestic Abuse (Scotland) Act, compared to a 5 year maximum sentence for convictions for the specific offence of non-fatal strangulation in England & Wales).

COPFS is aware that concerns have been raised about the existence in Scotland of a so-called “rough sex” defence and suggestions that it is being accepted by the courts. It must be confirmed that this is not accurate: there is currently no defence of consent to non-fatal strangulation in Scotland. Specifically, where there is evidence of strangulation within a sexual context, the recent appeal court decision within *Sean Kirkup v. His Majesty’s Advocate* [2025] HCJAC 9 reiterated that consent is not a defence to a charge of assault and motive for the attack is irrelevant. The court confirmed that there is no need for evidence of an intent to injure and to cause bodily harm - the requisite intention is to do the act deliberately. Thus, where there are physical encounters with inherent dangers to cause serious harm, such conduct should not be viewed as consensual sexual activity.

This recent statement of the law in Scotland makes it clear that there is no defence of consent to an assault in Scotland, save where there is a lack of intent (consensual sexual intercourse): “An assault is an attack on the person of another with evil intent.” The court plainly stated that “motive is irrelevant” and clarified that evil intent “means that the attack has to be intentional, as distinct from being accidental, negligent or reckless.” On non-fatal strangulation, the court specifically stated that “it would have been reasonably foreseeable that choking a person or slapping them on the head would be regarded as an assault and hence criminal.”

Consequently, the provisions in other jurisdictions, particularly England and Wales, remain less complete than the protection offered in Scotland. Moreover, there are significant risks to the safety of victims of sexual and domestic offending if the approach taken in these other jurisdictions were to be followed and alongside a standalone offence a defence of consent is introduced. Non-fatal strangulation has been described by victims and support agencies as “the ultimate control” and it is known to be a concerning escalation in coercively controlling tactics. It is a red flag indicator for domestic homicide.

Within the whole context of this offending, it is foreseeable to – and concerning for – prosecutors that there will be “constructive consent” where a victim is unable to give free agreement but has technically consented. Evidentially, trials are likely to focus on whether there was consent and this is likely to feel intrusive and retraumatising to victims. It does not accord with the criminal justice sector’s commitment through the Victim Taskforce to humanise the justice process and make it more victim-centred,

as the introduction of a defence of consent would likely be a further barrier to victims of Gender-Based violence and a further erosion of their confidence that they had been believed.

Prosecution approach in Scotland

Guidance to prosecutors is constantly updated to reflect developments in law, policy, society, prevalence and forensic developments. The most recent update to guidance on non-fatal strangulation was in December 2024 to reflect learning on prevalence and presentation. Reports of non-fatal strangulation are treated very seriously by prosecutors and there is a robust pro prosecution approach. Prosecutors are clear that there is no requirement to prove any injury or harm as a result of the strangulation provided it is intentional.

Proposals for the creation of standalone offence

Scot's law currently criminalises non-fatal strangulation and there is not a gap in the law that was present in the other identified jurisdictions to necessitate a standalone offence of non-fatal strangulation. Scotland does not need to replicate other jurisdictions in creating a standalone offence to "keep pace"; rather, it should reflect the fact that other jurisdictions are catching up with the Scottish approach. This is not a rationale to stand still and there remains significant work to ensure an effective and robust criminal justice response to non-fatal strangulation.

The compelling reason for a standalone offence is the declaratory power of the Scottish Parliament in passing a law that states non-fatal strangulation, on its own, is criminal conduct. Against the backdrop of concerning evidence of increased prevalence, lack of awareness of dangers, social pressure to consent in a sexual context and under-reporting, this would send a strong message. However, COPFS and the Law Officers are concerned about the unintended consequences of creating a specific offence which are addressed throughout these submissions and include dilution of the existing law.

Scotland benefits from the legislative action taken by the Scottish Parliament in tackling domestic abuse by passing the ground-breaking Domestic Abuse (Scotland) Act 2018. This unique legislation – Scotland remain global leaders - recognises the criminality and significance of coercive controlling behaviour being perpetrated against (ex) partners.

The Domestic Abuse (Scotland) Act 2018 Act created a single offence of a course of abusive conduct, reflecting the lived experience of victims of domestic abuse. The introduction of the Act enabled victims of domestic abuse, for the first time, to give evidence in relation to the entirety of the offending against them without being limited to individual instances. Scotland has been recognised globally as the "gold standard" in tackling violence against women and girls as a result of the Domestic Abuse (Scotland) Act 2018 and our unique understanding of domestic abuse. It is submitted that the absence of an equivalent approach to tackling domestic abuse, and the

absence of similar legislation can be considered a further reason why a specific offence for non-fatal strangulation was needed in other jurisdictions.

The 2018 Act is significant in consideration of a specific offence of non-fatal strangulation. The creation of a stand-alone offence of non-fatal strangulation potentially removes allegations of non-fatal strangulation from s1 DASA libels, returning to incident-focused policing and prosecution. This has the potential to detrimentally impact evidence-gathering and prosecution of domestic abuse. It could create evidential barriers. A stand-alone offence would require corroboration of each offence. Currently, non-fatal strangulation in a domestic relationship is likely to be prosecuted as part of a course of abuse behaviour, where it is the course of conduct that must be corroborated. It must be appreciated that this requirement for corroboration is challenging in the context of such intimate offending, likely to have been committed in private. Thus, COPFS is concerned that unintended consequences of this proposed legislation must be considered and that the introduction of such a stand-alone offence would be a retrograde step.

Public Awareness Concerns

The effective prosecution of non-fatal strangulation relies on public reporting to the police. Suggestions of under-reporting and a lack of public awareness of the harms and illegality of non-fatal strangulation are thus concerning. This lack of public awareness is illustrated by the Scottish Crime and Justice Survey 2021/22 (most recent), which has no reference to strangulation, suffocation or restriction of breathing, demonstrating a lack of reporting. It is incumbent on all of us to address concern about lack of public awareness by better understanding prevalence.

It is a concern therefore should there be instances of NFS occurring in circumstances where it is not subsequently reported either as a result of a lack of awareness of the harms and illegality of the behaviour or because the victim is in circumstances where they are unable to report the offending.

COPFS and other criminal justice agencies seek to actively remove barriers to reporting for victims of crime and will continue to do so for all offending. It is acknowledged that those barriers are greater for victims of Gender-Based violence and those with intersectional vulnerabilities, all of whom are more likely to be victims of non-fatal strangulation. The normalisation of non-fatal strangulation, particularly within sexual relationships, needs to be addressed. The Scottish Parliament faces a knotted problem: the introduction of a specific offence is likely to achieve greater public awareness swiftly and effectively; however, at the same time, it risks a dilution of the currently robust law in Scotland and has the potential to lead to increased reporting but less convictions. This does not serve the purpose of considering a specific offence.

In her submission to the Citizen Participation and Public Petitions Committee Fiona Drouet rightly highlights the need for greater public awareness of non-fatal

strangulation, echoed by Michelle Thomson's call for an awareness-raising programme. COPFS welcomes and supports any campaign designed to increase awareness of the harms of non-fatal strangulation and that would encourage reporting of such offending to the police.

Submission from Steve Johnson, Assistant Chief Constable, Major Crime, Public Protection and Local Crime, Police Scotland

Police Scotland welcomes the spotlight placed on Non-Fatal Strangulation (NFS) and highlighting the risks and harm caused. Through our engagement with partner agencies, it is acknowledged that there is a need for a greater societal awareness on the use of NFS by perpetrators, not just in the context of offending but including the psychological harm that it can cause, and its use as a tool by perpetrators in wider patterns of abuse. Police Scotland continues to engage with partners on this matter and support any initiatives & education as part of our wider strategy to tackle Violence Against Women & Girls (VAWG). We are committed to continuing this collaboration on NFS and welcome the consideration of measures that recognise and address this very harmful behaviour.

Police Scotland recognises that NFS frequently occurs in the context of domestic abuse. Effectively tackling domestic abuse is an organisational priority for Police Scotland. A consistent and robust approach is essential when dealing with criminal conduct arising from domestic abuse. The Joint Protocol between Police Scotland and the Crown Office & Procurator Fiscal Service outlines procedures and practices that will be followed by Police Scotland and COPFS in the investigation, reporting and prosecution of allegations involving an element of domestic abuse. There is no official guidance specifically about NFS, however, it is threaded through Police Scotland Domestic Abuse Training and Guidance.

As part of our approach to protect victims/survivors of domestic abuse, Police Scotland utilise the DASH Risk Assessment Checklist, to give a consistent risk assessment tool for practitioners who work with adult victims/survivors of domestic abuse. This tool is likewise used by Statutory & Third Sector Partner Agencies within Scotland.

The DASH is incorporated into the Domestic Abuse Questions (DAQ), which are asked by first responders to victims of domestic abuse.

These questions assist in the risk assessment of the perpetrator and vulnerability of the victim/survivor, and there is a specific question in relation to strangulation/choking and suffocation. The gravity of an offence where strangulation or any attempt at closing the victim's airway, or restricting breathing, is considered HIGH RISK.

The Domestic Abuse (Scotland) Act 2018 (DASA) established a new benchmark in addressing domestic abuse and coercive control, setting an internationally recognised standard. This legislation moved away from viewing domestic abuse as a series of isolated incidents and instead acknowledged it as a pattern of harmful behaviour that spans multiple, varied instances of abuse and coercive control. The

Act introduced a unified offence for a course of conduct, aligning more closely with the lived experiences of domestic abuse victims/survivors. For the first time, victims/survivors were allowed to provide evidence covering the full scope of the abuse they endured, rather than being restricted to focusing on specific acts that would previously have been treated as individual crimes.

In domestic abuse cases, NFS will rarely occur in isolation of other forms of abusive behaviour. As per our HMICS inspection in 2023, there is still a tendency in some cases for the police to respond to domestic abuse as single/multiple isolated incidents, with an emphasis on individual acts of violence. We aspire to remedy this through training and partner engagement and improve our understanding of the wider elements of abusive behaviour, coercive control, financial abuse and psychological harm, and have them considered as a course of conduct rather than unconnected individual crimes.

NFS has always been recorded and recognised as a crime if carried out in isolation. Additionally, the risk associated with it is recognised and will trigger a variety of tailored preventative action to support the victim/survivor and proactively target a perpetrator. Police Scotland currently drive prevention activity through the use of the Disclosure Scheme for Domestic Abuse, our protection of victims/survivors through participation in MARACs, and the targeting of offenders through MATACs.

Police Scotland adhere to the Scottish Crime Recording Standards in relation to crime classification. The circumstances surrounding the use of choking and/or NFS will determine how that crime is recorded. For example, if a victim loses consciousness, it would likely be recorded as an attempted murder. Additionally, there are circumstances where strangulation would be recorded as an Assault, Assault to Injury or Serious Assault. On the rare occasion that NFS occurs within a relationship in isolation from any other form of abusive behaviour, or when a single incident of NFS occurs outside the context of an intimate relationship, these crimes can be recorded and investigated accordingly.

From an investigative perspective all evidential opportunities would be considered at every incident of NFS, such as a Forensic Medical Examination (FME) to document injuries, along with Scenes of Crime Officers (SOCO) seizing evidential samples and photographing injuries. The severity of the incident would be supported by a statement from a medical professional which would influence the charge labelled.

Police Scotland have concerns that dealing with NFS in isolation or presenting it to the court as a single incident, could minimise opportunities to build a DASA case, to truly reflect the abuse experienced by a victim/survivor and the risk presented by a perpetrator. The introduction of a separate NFS offence may shift the prosecution of NFS out of the broader DASA investigative framework, back to an incident-based approach. This could also lead to evidential challenges as stand-alone offences would no longer be prosecuted as part of an overarching S1 DASA offence but as isolated incidents, each requiring separate corroboration.

Whilst Police Scotland consider that NFS as a standalone offence may detract from the impact of other legislation, notably DASA, the severity of violence experienced by victims/survivors and the ongoing threat posed by perpetrators must be unequivocally acknowledged.

We would welcome consideration of legal measures that genuinely reflect the detrimental impact of such behaviour, such as implementing a specific aggravating factor in existing offences and would welcome the opportunity to work with our partners to ensure our training, processes and systems were in place to facilitate full implementation.

Police Scotland will continue to listen, engage and understand the perspectives of all stakeholders on this matter. Police Scotland believe a collective partnership response through education and awareness should play a significant role in enabling NFS to be effectively tackled through the existing provisions.

Submission from Professor Cath White OBE, Medical Director, Institute for Addressing Strangulation

1. Role of the author

Professor Cath White OBE

I have submitted this evidence as the Medical Director of the Institute for Addressing Strangulation (established via Home Office funding in 2022).

Prior to this role I was the Clinical Director of Saint Mary's Sexual Assault Referral Centre, Manchester for 19 years and was a GP partner for 18 years.

My work at Saint Mary's SARC on non-fatal strangulation, including published research, led me to be involved with the call for a change in the law in England and Wales, on strangulation.

2. My view

I support the call to make non-fatal strangulation (NFS) a stand-alone offence.

3. Summary of reasons for such a view

- a. NFS is a red flag for future lethality.
- b. NFS will often leave no visible external injury making it difficult to use other legislation such as GBH or ABH.
- c. NFS may cause internal injury, which may have devastating short term consequences as well as long term health problems.
- d. NFS is often used as a means of control of victims, especially in a domestic abuse situation.
- e. NFS often induces terror in those being strangled.
- f. Introduction of NFS as a stand-alone offence in 2022 in England and Wales has helped elevate awareness of the crime and improved professional and public response.

4. Detail of reasoning:

- a. NFS is a red flag for future lethality.**

As such, this differentiates it from many other types of assault, something that needs to be recognised in the legislation.

1. The seminal research demonstrating that NFS, in the context of domestic abuse, should be viewed as a red flag for future lethality, stems in my view, from a paper published in 2008 by Nancy Glass^[1]. [Non-fatal strangulation is an important risk factor for homicide of women - PubMed](#)

“A case control design was used to describe non-fatal strangulation among complete homicides and attempted homicides (n = 506) and abused controls (n = 427).

Prior non-fatal strangulation was associated with greater than six-fold odds of becoming an attempted homicide, and over seven-fold odds of becoming a completed homicide. These results show non-fatal strangulation as an important risk factor for homicide of women, underscoring the need to screen for non-fatal strangulation when assessing abused women in emergency department settings.

Although this USA study has not replicated in the UK, the data indicates that this is not an isolated USA phenomenon.

2. IFAS analysis of Domestic Homicide Reviews

The Institute for Addressing Strangulation (IFAS) undertook a review of 554 Domestic Homicide Reviews (DHR). The four subsequent reports can be found: [Domestic Homicide Review Analysis Series - Institute for Addressing Strangulation](#)

Key points were:

In DHRs with a history of Non-Fatal Strangulation

(DHR NFS Summary)

- 74/396 of the DHRs (19%) had a history of NFS.
- 42/80 (53%) of the victims of non-fatal strangulation were killed by a person who non fatally strangled them. (In some of the DHRs there was more than one victim)
- The perpetrator of the homicide non-fatally strangled a person other than the victim of the homicide. 23/80 (29%) of the victims of non-fatal strangulation were not killed by the perpetrator, victims included previous partners, family members and strangers.
- 4/80 (5%) of the victims of non-fatal strangulation died by suicide/accidental overdose.

- In cases where the victim was non-fatally strangled and killed by the same person 99% (41/42) were females. There was just 1 case where a male victim was strangled and killed by the same person, in this case his brother.
- By relationship, 91% (38/42) of those who were non-fatally strangled and killed by the same person were killed by a current or ex intimate partner.

In DHRs with a history of fatal strangulation

Domestic Homicide Review Analysis Fatal Strangulation

- In our review of 554 DHR reports, there were 75 (14%) victims killed by strangulation. 95% (71/75) of the victims were female. 5% (4/75) of the victims were male.
- Over a third of victims (37%) had a reported vulnerability such as substance misuse issues, financial dependency, or pregnancy.
- 84% of the victim-perpetrator relationships were current or former intimate partners. In 66% of intimate partner relationships, the DHR reported that the relationship had ended, or the victim was trying to end the relationship around the time of the homicide.
- 59% of those who were killed by strangulation had experienced non-fatal strangulation prior to their death.

3. Femicide Census 2025 “2000 Women” [2000-Women-full-report.pdf](#)

This report looked at the first 2000 women and girls aged 14 and above, killed in the UK since 2009, where a man or men have been identified by state bodies as being responsible for that woman’s premature death.

Strangulation / asphyxiation accounted for 27.50% of the deaths, second only to deaths caused by a sharp instrument.

4. Home Office 2024

A ‘key findings’ report from the Home Office, which examined 124 Domestic Homicide Reviews that took place between October 2019 and October 2020, found that in 25% of homicides, the method of killing was strangulation (the Home Office included asphyxiation, pressure to neck, strangulation, and suffocation in their definition). In this report 80% of the victims were female and 20% male

[Key findings from analysis of domestic homicide reviews: October 2019 to September 2020 \(accessible\) - GOV.UK](#)

b. NFS will often leave no visible external injury.

Despite the potential seriousness of NFS, it often leaves no visible mark. Therefore, treating it the same as other assault types, such as slapping, punching, risks missing the seriousness of the act.

In England & Wales, prior to the change in the law in 2022, one of the arguments put forward to keeping the status quo, was that NFS could be dealt with using existing laws, such as GBH and ABH.

This in my view, as a non-lawyer, did not seem satisfactory.

One reason for this is that often NFS will leave no visible external objective injury.

At Saint Mary's SARC we have undertaken several studies looking at patients presenting for a forensic medical examination who give a history of NFS as part of the rape or sexual assault.

1. ['I thought he was going to kill me': Analysis of 204 case files of adults reporting non-fatal strangulation as part of a sexual assault over a 3 year period - PubMed](#)

In this studyⁱⁱⁱ less than 50% of the 204 adults (197 women, 7 men) with a history of NFS had a visible injury during the forensic medical examination. This figure aligns closely with international research.

2. Child NFS “Analysis of case files of children reporting non-fatal strangulation as part of a sexual assault” (in press)

In this 7-year study we analysed case files of 91 children with a history of NFS. Only 31% had an objective visible injury attributable to the NFS.

3. Male NFS “An analysis of non-fatal strangulation in adult males reporting rape or sexual assault between 2017 and 2024” (under review)

In the 8-year study we analysed case files of 20 men with a history of NFS. 60% had an objective visible injury attributable to the NFS.

This meant that in many cases there was no charge of ABH or GBH despite the seriousness (both physically and psychologically) of the assault. In practice the NFS was treated the same as the slap or the kick or the punch.

The stand-alone law in England & Wales recognises that there does not have to be an injury. Indeed, the Sentencing Council, in their guidance published in December 2024, recognised the seriousness of strangulation. [Strangulation or suffocation / Racially or religiously aggravated strangulation or suffocation – Sentencing](#)

“Harm: All cases of strangulation involve a very high degree of inherent harm. A victim may experience extreme terror, fear for their life and be deeply traumatised. Harm can include a range of internal and external physical injuries and psychological impacts, immediate and delayed, for which presentation may vary between victims.”

c. NFS may cause internal injury, which may have devastating short term consequences as well as long term health problems.

It is well recognised that NFS, can quickly have devastating consequences, including stroke, carotid artery dissection, nerve damage etc. with minimal force.

In addition to any neurological or vascular damage leading to possible cognitive and behavioural changes, there is also the potential for significant psychological trauma. A systematic review by Bichard et al^[iii] looking at 27 peer reviewed studies sets out in detail the evidence for this.

Research conducted by the charity Brainkind, [Brain injury and domestic abuse - Too many to count report](#) found that 55% of the 60 women survivors of domestic abuse interviewed screened positive for a history indicative of brain injury. 46% of participants used the word strangulation to describe these experiences.

There is increasing recognition of the increase in suicide by those subjected to domestic abuse, including NFS^[iv].

My belief is that by making NFS a stand-alone offence, it raises awareness of the crime amongst professionals (health as well as criminal justice) and the public, making it more likely that it will be treated with the seriousness that is required.

d. NFS is often used as a means of control of victims, especially in a domestic abuse situation.

Because of the terrifying nature of NFS, it can be an effective tool to control victims, particularly when it has been used on a prior occasion. Subsequent “episodes” of NFS can be done applying only the slightest of pressure to the victim’s neck as there is a shared understanding between them, that the perpetrator has her life “in his hands”. A gentle squeeze will remind her of what power he yields. Of course, such a gentle squeeze, whilst tarrying will leave nothing in terms of injury. Again, this is different to other types of assault.

In both my direct experience examining patients with a history of NFS and my work reviewing hundreds of medical case files, it is not uncommon for people to say that they have been strangled multiple times.

This will often be in the context of domestic abuse / coercive control.

In the study of Adults at Saint Mary's SARCⁱⁱ out of the 204 cases reporting NFS, 55 (27.0%) reported that the alleged perpetrator had also previously strangled the patient prior to the current event. Where the alleged perpetrator was a partner or ex-partner the median DASH RIC score was 15 (range 4–24); any score over 14 is considered high.

In the Saint Mary's Child NFS paper, of the 91 children, 16.5% said the alleged perpetrator had also strangled them previously

e. NFS often induces terror in those being strangled.

Fear of death during NFS is not uncommon.

In the Saint Mary's Adult studyⁱⁱ, over a third of the NFS patients thought that they were about to die. Given the rapidity at which death can occur, this was not an overreaction.

There is a similar rate in the Saint Mary's Male study, where 40% of the men thought they were about to die.

In Sorenson's 2014 review^{iv} of NFS she likened NFS to waterboarding:

“Nonfatal strangulation might well be the domestic violence equivalent of water boarding. Water boarding, which involves water being poured into the mouth and nasal passages of an immobilized captive to simulate drowning, is widely considered to constitute torture. (One US-based study of IPV, perhaps acknowledging the psychological similarity, asked about “choked or tried to drown.”¹²) Both leave few marks immediately afterward, both can result in the loss of consciousness, both are used to assert the actor's dominance and authority over the life of the other, both create intense fear and potentially result in death, and both can be used repeatedly, often with impunity.

f. Introduction of NFS as a stand-alone offence in 2022 in England and Wales has helped elevate awareness of the crime and improved professional and public response.

The College of Policing, 2025 Vulnerability Knowledge and Practice Programme (VKPP) Domestic Homicides and Suspected Victim Suicides 2020-2024 Year 4 Report [Domestic Homicide Project - VKPP Work](#) picked up on the link between NFS and victim suicide:

Recommendation 8 *“The police should work with relevant partner agencies, such as health, to raise awareness about the risks posed by non-fatal strangulation, including in relation to domestic homicide and its prevalence within cases of suspected victim suicide following domestic abuse.*

IFAS has summarised the change in prevalence of NFS in its recent publication [UK Prevalence of Non-Fatal Strangulation \(April 2025\)](#)

Professor Cath White MB ChB FFFLM FRCOG

14th May 2025

[IFAS - Institute for Addressing Strangulation](#)

References

[i] Glass N, Laughon K, Campbell J, Block CR, Hanson G, Sharps PW, Taliaferro E. Non-fatal strangulation is an important risk factor for homicide of women. J Emerg Med. 2008 Oct;35(3):329-35. doi: 10.1016/j.jemermed.2007.02.065. Epub 2007 Oct 25. PMID: 17961956; PMCID: PMC2573025.

[ii] White C, Martin G, Schofield AM, Majeed-Ariss R. 'I thought he was going to kill me': Analysis of 204 case files of adults reporting non-fatal strangulation as part of a sexual assault over a 3-year period. J Forensic Leg Med. 2021 Apr;79:102128. doi: 10.1016/j.jflm.2021.102128. Epub 2021 Feb 16. PMID: 33618205.

[iii] Bichard H, Byrne C, Saville CWN, Coetzer R. The neuropsychological outcomes of non-fatal strangulation in domestic and sexual violence: A systematic review. Neuropsychol Rehabil. 2022 Jul;32(6):1164-1192. doi: 10.1080/09602011.2020.1868537. Epub 2021 Jan 12. PMID: 33432860.

[iv] AAFDA Danger, Munro, Andrade 2022 [Key findings from analysis of domestic homicide reviews: October 2019 to September 2020 \(accessible\) - GOV.UK](#)

[v] Susan B. Sorenson, Manisha Joshi, and Elizabeth Sivitz:

[A Systematic Review of the Epidemiology of Nonfatal Strangulation, a Human Rights and Health Concern](#)

American Journal of Public Health **104**, e54_e61,
<https://doi.org/10.2105/AJPH.2014.302191>

Written Submission from the Law Society of Scotland

Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Criminal Law Committee welcomes the opportunity to consider and respond to the Criminal Justice Committee call for views on the public petition PE2136: Make non-fatal strangulation a standalone criminal offence in Scotland^[1]. The Committee has the following comments to put forward for consideration.

General comments

Currently in Scotland, non-fatal strangulation (NFS) incidents are mainly treated under the common law offence of assault, defined as “an attack on another person with evil intent”^[2]. Assaults can only be committed intentionally, and the perpetrator’s motive is irrelevant^[3].

We note that NFS incidents can produce severe consequences in the physical and mental health of victims. We also note that according to the public petition document, NFS incidents are strongly related to domestic abuse cases, affecting women disproportionately.

We have a neutral view on the creation of a standalone offence of NFS. As indicated above, these types of incidents are already covered by the common law offence of assault. However, some evidence from comparable jurisdictions demonstrates that introducing a standalone offence may impact positively in community education on the serious effects of NFS and the safety of victims^[4].

The creation of a standalone offence of NFS could produce available statistics that may contribute to understand the scale of the problem. However, as we have indicated in other legislative initiatives related to the creation of new offences^[5], the allocation of appropriate resources is critical to ensure the enforcement of new provisions.

Evidence from other UK jurisdictions

NFS offences has been introduced in many comparable jurisdictions included England and Wales^[6] and Northern Ireland^[7]. A recent study showed that between 7 June 2022 and 14 August 2023, 32 police forces in England and Wales recorded 29,767 NFS cases^[8]. While researchers found some limitation with the data, they found a charging rate of around 12%. However, they also found that 20% of the cases charged were charged with an alternative offence.

The Institute for Addressing Strangulation (IFAS) has made some analysis of non-fatal strangulation in England and Wales. In their research published in February 2024, they analysed 396 Domestic Homicide Reviews (DHR) which occurred between 2011 and 2023. It was found that in 53% of the cases, the victim of NFS was killed by a person who non-fatally strangled them^[9].

Defence of consent

We consider that the introduction of a NFS offence may produce a discussion on the availability of the defence of consent. In England and Wales, consent is a statutory defence for the offence of strangulation or suffocation. However, the defence will not apply if the perpetrator intended to cause serious harm to the victim or was reckless as to whether the victim would suffer serious harm. A similar defence was defined in Section 28(6) of the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022.

As currently defined in Scotland, when NFS incidents are treated under the common law offence of assault, consent it is not an available defence. In *Kirkup vs. HMA*, the High Court of Justiciary stated that consent is not a defence to a charge of assault and “the Sexual Offences (Scotland) Act has no effect on the requirements of, or defences to, assault”.

We consider that some consideration should be given to the issue of consent if a NFS offence is introduced.

^[1] [Make non-fatal strangulation a standalone criminal offence in Scotland | parliament.scot](https://www.parliament.scot)

^[2] Macdonald, J., 1867. *A practical Treatise on the Criminal Law of Scotland*. Edinburgh: W. Paterson., included in [Scottish Sentencing Council Sentencing Assault Offences – Literature Review \(October 2022\) | scottishsentencingcouncil.org.uk](https://www.scottishsentencingcouncil.org.uk)

^[3] [Sean Kirkup v. HMA \[2025\] HCJAC 9 HCA/2024/85/XC](https://www.hcjc.gov.uk/cases/sean-kirkup-v-hma-2025)

^[4] H Bows and J Herring. *Non-Fatal Strangulation: An Empirical Review of the New Offence in England and Wales*. *The Journal of Criminal Law*. Volume 88, Issue 5-6 (2024).

^[5] [Dog Theft \(Scotland\) Bill written evidence| lawscot.org.uk](https://www.lawscot.org.uk)

^[6] [Section 70\(1\) of the Domestic Abuse Act 2021.](#)

^[7] [Section 28 of the Justice \(Sexual Offences and Trafficking Victims\) Act \(Northern Ireland\) 2022](#)

^[8] H Bows and J Herring. *Non-Fatal Strangulation: An Empirical Review of the New Offence in England and Wales.*

^[9] M McGowan, IFAS. [*Domestic Homicide Review Series Part Two: An analysis of Domestic Homicide Reviews with a history of non-fatal strangulation.*](#)