

Submitted to Protections in the justice system for women and girls
Submitted on 2026-08-31 13:11:48

Non-fatal strangulation

1 Do you agree with the Scottish Government view on the benefits arising from the operation of current law?

No

Please give reasons for your answer:

We recognise that, under current Scots Law, non-fatal strangulation (NFS) can be prosecuted under common-law assault, attempted murder, culpable and reckless conduct, sexual assault or under the Domestic Abuse (Scotland) Act 2018. We are also concerned that any stand-alone offence might, inadvertently, result in a lower tariff for these offences. As a point of principle, For Women Scotland (FWS) holds that where existing legislation is satisfactory, the police and courts should use these routes to prosecute offenders.

However, NFS is often not recognised by the system. Evidence suggests that it is often not identified and prosecuted and victims report that the conduct is minimised. Although it should be included in assessments of domestic violence, it is often overlooked. This may be due to the erroneous, but widespread, belief that this is not a form of violence but part of a sexual relationship. This is reinforced by the uptick in violent pornography.

COPFS has reported that NFS is on the rise and are urging victims to come forward [1]. It seems clear that it is not being adequately captured by the existing structures.

It may be that the current system can be improved and programmes, training and awareness used to ensure this pattern of behaviour is recognised as abuse but so far it has not been captured in the operation of current law.

The advantage of a specific offence would be legal visibility and improvement of public awareness. We find it interesting that this is the position taken by the Scottish Government in many other areas where existing law is more than adequate to cover offences. Assist reports that 50% of the women they support through the criminal justice system who have suffered domestic violence, report that they have been subject to strangulation. It is clear that this is an endemic problem. We do not believe that law should be used to "send messages", but that has been a facet of recent Government decisions. It would be unconscionable if the Government were to revert to this position when other Bills come forward while determining that this dangerous practice is not worth the attention.

Should any new offence be introduced, it must preserve the rule that consent is not a defence and must not prevent the conduct also being included within a Domestic Abuse (Scotland) Act charges or under any other offences.

If a new law is not introduced, it is imperative that other changes are made in the current system to reflect the widespread and dangerous nature of NFS.

1 <https://www.bbc.co.uk/news/articles/cpvx8y0ker4o>

2 Do you agree with the Scottish Government view for better recording of criminal cases where non-fatal strangulation arises?

Yes

Please give reasons for your answer:

Irrespective of whether or not a new offence is introduced, it is vital that recording improves.

A national marker should record alleged conduct from the first report and should not be limited to cases that result in conviction. Data records must be improved and disaggregated by sex, age, accused-victim relationship, domestic or sexual context, charge selected, prosecution decision and outcome. NFS must be recorded separately from general assault and repeat incidents and escalation flagged by the system. Incidents must be taken into account at sentencing where proved.

3 Do you have views on how best public awareness can be improved as to the dangers of non-fatal strangulation?

Yes

You can use this space to tell us your views:

It is clear that there is a pressing need for a national public-health campaign. The message must include the fact that there is no safe way to strangle a person, serious injury can occur without visible marks, delayed complications are possible and urgent medical assessment may be required. As Professor Cath White from the Institute for Addressing Strangulation said at the Scottish Parliament in Dec 2024, the consequences can be devastating:

6 – 8 seconds: Loss of consciousness

15 seconds: Bladder incontinence

30 seconds: Bowel incontinence

2 – 3 minutes: Cell death

4 – 5 minutes: Brain death

Other consequences include long-term injuries to brain, neck structure, including haemorrhage into muscles, vocal cords, nerves, thyroid, hyoid bone and damage to blood vessels.

Messaging must address the normalisation of strangulation in pornography and distinguish it from consensual sexual intimacy. It should be developed with survivors, rape-crisis and domestic-abuse organisations, clinicians and young people, and delivered through schools, colleges, universities, health services, maternity services, sexual health services and online platforms.

4 Do you have any other views on steps to address the dangers of non-fatal strangulation?

Yes

You can use this space to tell us your views:

Whether or not new legislation is required, there is a pressing need for mandatory training for Police Scotland, COPFS, judiciary, emergency departments, GPs, maternity services, SARCS and advocacy services, prompt access to medical assessment and clear advice about delayed symptoms even where no injury is visible. There should also be an automatic reassessment of domestic-abuse and homicide risk when strangulation is disclosed as well as evidence-preservation guidance covering photographs, voice changes, swallowing difficulty, neurological symptoms, witness accounts and medical findings.

Spiking

5 Do you have views on how the offence of spiking is addressed under existing laws?

Yes

You can use this space to tell us your views:

We recognise that the principal difficulty in prosecution of spiking offences is inconsistency around recording and investigation. The nature of the crime means that assumptions about alcohol consumption and behaviour impacts how seriously reports are treated. Delays in toxicology testing may mean that spiking drugs have already left the system of the victim.

There is an absence of published data in Scotland which makes it harder to assess the situation and map offences.

6 Do you have views on the benefits of developing a standalone spiking offence?

Not Answered

You can use this space to tell us your views:

7 Do you have any views on (a) how public awareness can be improved as to the dangers of spiking and (b) how to encourage individuals to report a spiking offence?

Yes

You can use this space to tell us your views:

Reports of spiking must be taken seriously and not dismissed due to factors such as previous alcohol consumption. Reports must be investigated in a timely fashion. Public messaging must reinforce that administering drugs or alcohol without consent is a crime.

Police Scotland, NHS, and others should be trained on the short-window timescale to obtain toxicology reports and allow urgent healthcare and forensic sampling. Suspected cases as well as confirmed cases should be included in data.

Bars and staff at events etc should receive training on danger signs and be alert to preservation of evidence as needed.

Statutory aggravation: offences committed against pregnant women

8 Do you agree there should be a new aggravation in relation to offences committed against pregnant women by a partner or ex-partner?

Yes

Please give reasons for your answer:

30% of Domestic abuse cases begin during pregnancy - a time when many women will have increased vulnerabilities - and, in other cases, it escalates.

While the abuse may carry a risk to the viability of the pregnancy, it does not have to induce miscarriage to cause damage to the mother and child.

Any aggravated offence must work in tandem with measures to address existing issues with detecting abuse in pregnancy and must also recognise coercion as well as physical assault. The Maternal Health Alliance has identified key areas which must be improved to enable better identify women at risk of abuse, including:

- Raising awareness in perinatal mental health services on how to respond to domestic abuse.
- Routine inquiry about domestic abuse.
- Better training especially in understanding coercive control, stigma, ethnic minority challenges, and systemic issues.

<https://maternalmentalhealthalliance.org/campaign/inequalities/domestic-abuse/>

Prosecutorial powers to impose non-harassment orders

9 Do you agree that COPFS should be given a power to make an NHO against a person when offering an alternative to prosecution?

No

Please give reasons for your answer:

This should be made in addition to prosecution rather than as an alternative. Perpetrators regularly breach orders of this nature, thus they offer little protection to the victim. Domestic abuse, stalking and harassment are serious offences. Men who harass women frequently escalate to commit other crimes. Joan Smith has shown that men who commit acts of terror often begin by abusing the women in their families. These offences should be treated with greater, not lesser, seriousness.

<https://www.theguardian.com/commentisfree/2021/aug/05/many-terrorists-abuse-women-research-extremist-attackers-violent-misogyny>

10 Do you agree on how applications to vary or revoke an NHO made by COPFS should be handled with court involvement suggested for any appeals?

Not Answered

Please give reasons for your answer:

11 Do you agree an NHO made by COPFS as part of an alternative to prosecution should have a maximum time period of 12 months?

Not Answered

Please give reasons for your answer:

Online and technology-facilitated harm: intimate images - deepfakes

12 Do you agree with the Scottish Government proposal for a creation offence?

Not Answered

Please give reasons for your answer:

13 Do you agree with the proposal for a requesting creation offence?

Not Answered

Please give reasons for your answer:

About you

What is your name?

Name:

Susan Smith

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

For Women Scotland

Further information about your organisation's response

Please add any additional context:

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response only (without name)

Do you consent to Scottish Government contacting you again in relation to this consultation exercise?

Yes

What is your email address?

Email:

susan.smith@forwomen.scot

Where did you hear about this consultation?

Scottish Government website

If other, please say where::