

Citizen Participation and Public Petitions Committee
Wednesday 19 March 2025
5th Meeting, 2025 (Session 6)

PE2136: Make non fatal strangulation a standalone criminal offence in Scotland

Introduction

Petitioner Fiona Druet

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to make non-fatal strangulation a standalone criminal offence in Scotland.

Webpage <https://petitions.parliament.scot/petitions/PE2136>

1. This is a new petition that was lodged on 6 January 2025.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B**.
4. Every petition collects signatures while it remains under consideration. At the time of writing, 1,883 signatures have been received on this petition.
5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered.
6. The Committee has received submissions from the Scottish Government and the Petitioner, which are set out in **Annexe C** of this paper.

Action

7. The Committee is invited to consider what action it wishes to take.

Clerks to the Committee
March 2025

Annexe A: Summary of petition

PE2136: Make non-fatal strangulation a standalone criminal offence in Scotland

Petitioner

Fiona Drouet

Date Lodged

6 January 2025

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to make non-fatal strangulation a standalone criminal offence in Scotland.

Background information

Non-fatal strangulation (NFS) is increasingly recognised as a severe form of domestic abuse. In June 2022, England & Wales made NFS a standalone crime, followed by Ireland in 2023. Scotland must urgently address the dangers posed by NFS. NFS is a significant predictor of homicide in abusive relationships, with victims being 8 times more likely to be killed. The act can cause brain damage, organ failure, mental ill health, and death. Victims often describe NFS as a near-death experience, with 80% suffering lasting impacts. Women are disproportionately affected, with a 2024 review showing that 81% of NFS victims were women, and 97% of perpetrators were male. The introduction of NFS legislation in England & Wales has revealed the extent of this crime. Between June and December 2022, 8,375 NFS offences were reported, with 971 charges. These figures reflect the prevalence and urgency of addressing this form of abuse. Scotland must follow the example set to protect women and girls by making NFS a standalone crime.

Annexe B: SPICe briefing on PE2136



Brief overview of issues raised by the petition

The petition calls for the Scottish Parliament to urge the Scottish Government to make non-fatal strangulation a standalone criminal offence in Scotland.

It states that non-fatal strangulation is increasingly recognised as a severe form of domestic abuse and was made a standalone crime in England and Wales in 2022 and in Ireland in 2023. It notes that the vast majority of victims are women and that the act can cause brain damage, organ failure and mental ill health.

Background information

The [Institute for Addressing Strangulation](#) (IFAS) states that strangulation is an “obstruction or compression of blood vessels and/or airways by external pressure to the neck impeding normal breathing or circulation of the blood”. Non-fatal strangulation is “where such strangulation has not directly caused the death of the victims”.

An IFAS publication in 2023, [UK Prevalence of Strangulation & Suffocation](#), found that 1 in 4 women accessing community and refuge services reported that they had experienced strangulation or suffocation.

A further [IFAS report](#) published in 2024 contained an analysis of Domestic Homicide Reviews, which found that 19% (74/396) included a history of non-fatal strangulation having taken place.

Current legislation – Scotland

Assault

In Scotland, assault is a common law offence. Common law comes from the decisions of courts rather than being offences which are set out legislation.

For recording purposes, Police Scotland differentiate between a serious assault and a common assault, however this distinction does not alter the common crime of assault. Serious assault is where the victim sustains an injury which results in detention in hospital as an inpatient to treat the injury, or involves fractures, internal injuries, severe concussion or injuries which may lead to impairment or disfigurement.

Assaults can have aggravating factors attached to them, for example, assault to severe injury or danger to life. These make them more serious and can result in higher sentences. More information on the [sentencing process](#) can be found on the Scottish Sentencing Council's website.

Where victims have a less severe physical injury or even where there is no visible physical injury at all, the perpetrator can still be charged with common assault.

The common law of assault means that the crime can be prosecuted under either summary or solemn procedure¹, so the penalties available depend on the procedure under and court in which the accused is prosecuted:

- Sheriff Court
 - Summary – up to 12 months imprisonment and/or a £10,000 fine
 - Solemn – up to 5 years imprisonment and/or an unlimited fine
- High Court – up to life imprisonment and/or an unlimited fine.

Domestic Abuse (Scotland) Act 2018

The [Domestic Abuse \(Scotland\) Act 2018](#) created a new statutory offence of domestic abuse. It covers behaviour which was already criminal, such as assault, as well as that which may not previously have been captured by existing offences.

It sets out three conditions, all of which must be proven for a conviction:

- the accused engaged in a course of behaviour which was abusive of the accused's partner or ex-partner
- a reasonable person would consider the course of behaviour to be likely to cause the partner/ex-partner to suffer physical or psychological harm
- the accused either intended the course of behaviour to cause such harm or was reckless as to whether it would.

Someone guilty of the offence of domestic abuse under this legislation could receive a maximum sentence of 14 years imprisonment (if prosecuted in the High Court).

Current legislation – Rest of the UK and Ireland

England and Wales

Section 70 of the Domestic Abuse Act 2021 came into force on 7 June 2022 and created the standalone offence of strangulation or suffocation by amending the Serious Crime Act 2015. [Section 75A](#) of the Serious Crime Act 2015 sets out what this offence consists of and includes a defence for consensual strangulation

¹ Summary procedure is for relatively less serious and solemn for more serious offences.

(although there are limits to when the defence can be relied upon). The penalty for this offence on a summary conviction is up to 12 months imprisonment and/or a fine, and on conviction on indictment up to 5 years imprisonment and/or a fine.

IFAS have published reports based on data from the 12 months following the introduction of these offences in England and Wales:

- [Strangulation and Suffocation Offences: June 2022 - June 2023 – An Analysis of Police Report Data](#)
- [Prosecution and Sentencing of Strangulation and Suffocation Offences An analysis of data from Ministry of Justice June 2022 – June 2023](#)

Key findings are that there have been:

- 23,817 non-fatal strangulation and non-fatal suffocation offences recorded by the 33 police force areas who provided data
- 1,367 prosecutions and 650 convictions for non-fatal strangulation
- 70 prosecutions and 28 convictions for non-fatal suffocation.

These figures should be read in the context that not all the offences recorded during this period will have reached a final outcome by the time the prosecution data was requested. Therefore, the number of prosecutions and convictions may increase.

Northern Ireland

[Section 28 of the Justice \(Sexual Offences and Trafficking Victims\) Act \(Northern Ireland\) 2022](#) created a new offence of non-fatal strangulation or asphyxiation, coming into effect on 26 June 2023. Again, it sets out what the offence consists of and a defence for consensual strangulation as above. The penalty for this offence on summary conviction is up to 2 years imprisonment and/or a fine, and on indictment up to 14 years imprisonment and/or a fine.

Ireland

[Section 21 of the Criminal Justice \(Miscellaneous Provisions\) Act 2023](#) created the standalone offence of non-fatal strangulation or non-fatal suffocation, with a commencement date of 1 November 2023. The penalty for this offence on summary conviction is up to 12 months imprisonment and/or a fine, and on indictment up to 10 years imprisonment and/or a fine.

The reason for introducing the standalone offence in all of these countries [has been noted](#) as ensuring that perpetrators could be charged and prosecuted with a sufficiently serious offence even in the absence of physical injuries.

Scottish Government action

Parliamentary Questions

The First Minister recently responded to a parliamentary question by

Michelle Thomson MSP ([S6F-03622](#)) asking him what plans the Scottish Government had to bring forward legislation to criminalise non-fatal strangulation. He answered this question in the Chamber on 12 December 2024 stating:

“Conduct amounting to non-fatal strangulation is already a criminal offence under the common law of assault, and carries maximum penalties of up to life imprisonment. However, we constantly keep the law under review. For a stand-alone offence to be put in place, we would need to be confident that there is a gap in the law. We will give the proposal serious consideration.”

Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Bill

The Scottish Government introduced the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Bill on 24 September 2024, with a Stage 1 deadline of 4 April 2025. Important issues of scope would require to be considered should any amendments be received that wished to include a standalone offence of non-fatal strangulation within this Bill.

Scottish Government response to the Petition

The [response to this petition from Angela Constance MSP, the Cabinet Secretary for Justice and Home Affairs](#), notes that non-fatal strangulation is already a criminal offence in Scotland under the common law of assault and can carry a maximum penalty of life imprisonment.

The response states that when looking at arguments for creating a standalone criminal offence the Cabinet Secretary “must also balance this with the challenges that are presented when looking at proposals for new pieces of legislation, alongside the operation of the existing legislative framework”. It goes on to highlight the need to be alert to potential unintended consequences in creating new laws, for example in this case, how any new law would interact with the operation of the domestic abuse offence.

Finally, the Cabinet Secretary notes that, in recognition of the issues raised by the Petition:

“...we do also consider that there would be merit in looking at what more the justice system could do within existing procedures. This could include specific sentencing guidelines which may be considered which would ensure that following conviction for an offence involving non-fatal strangulation, the court reflects this behaviour within the sentence. There may also be merit in looking

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at alternative approaches, including the use of an aggravation in this context, as a means of delivering the same outcome.”

Kirsty Deacon
Senior Researcher
25 February 2025

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Annexe C: Written submissions

Cabinet Secretary for Justice and Home Affairs written submission, 18 February 2025

PE2136/A: Make non-fatal strangulation a standalone criminal offence in Scotland

I want to thank the Committee for the opportunity to provide an early response to PE2136: Make non-fatal strangulation a standalone criminal offence in Scotland, as part of its evidence gathering.

The Committee will be aware that this Petition has been raised within the Scottish Parliament during First Minister's Questions. The Scottish Government has been clear that it will give serious consideration to the Petition, and I remain committed to that approach.

Firstly, I want to make absolutely clear that I fully recognise the serious issue of non-fatal strangulation. This type of abuse is abhorrent, and as noted with the Petition, can have significant physical and psychological impact on victims.

Whilst I am fully aware of the arguments outlined within the Petition and by some MSPs and stakeholders, for a standalone criminal offence, in my capacity as Cabinet Secretary for Justice and Home Affairs I must also balance this with the challenges that are presented when looking at proposals for new pieces of legislation, alongside the operation of the existing legislative framework.

As the Committee is aware, conduct amounting to non-fatal strangulation is a criminal offence in Scotland under the common law of assault. This offence carries maximum penalties up to **life imprisonment**.

I note that the Petitioner outlines the standalone crime of non-fatal strangulation in England and Wales, which the UK Government acknowledged at the time does not actually change the law in relation to non-fatal strangulation but simply codifies it.

In the context of the wish to create a new criminal law in respect of non-fatal strangulation, I remain open minded towards the proposal, whilst being alert to any potential unintended consequences in creating new laws. For example, understanding how any new law would interact with the operation of the domestic abuse offence is a particularly important aspect. The domestic abuse offence is of course a course of behaviour offence where an item of behaviour may be an incident of non-fatal strangulation. While some non-fatal strangulation incidents may occur not in the context of a relationship, we are aware many do and how new laws would complement the operation of domestic abuse law is a key consideration.

That said, and in recognition of the issues raised by the Petition, we do also consider that there would be merit in looking at what more the justice system could do within existing procedures. This could include specific sentencing guidelines which may be

considered which would ensure that following conviction for an offence involving non-fatal strangulation, the court reflects this behaviour within the sentence. There may also be merit in looking at alternative approaches, including the use of an aggravation in this context, as a means of delivering the same outcome.

My officials will continue to progress considerations in this area, including discussion with operational partners, and I will ensure you are kept advised as that work moves forward. In the meantime I will consider any further written submissions you receive on the Petition.

Yours sincerely

Angela Constance

Petitioner written submission, 6 March 2025

PE2136/B: Make non fatal strangulation a standalone criminal offence in Scotland

Introduction

Non-fatal strangulation (NFS) is increasingly recognised as a severe form of domestic violence. In June 2022, England and Wales made NFS a standalone crime, recognising its extreme harm. Ireland followed suit in 2023. Scotland must keep pace with these changes by introducing NFS as a standalone criminal offence.

NFS is particularly dangerous, often signalling a heightened risk of homicide. Victims are eight times more likely to be killed when NFS is involved in an abusive relationship. The act itself can cause brain damage, organ failure, long-term physical and mental health problems, and increases the risk of strokes and neurological disorders. Victims report the trauma of experiencing NFS as a near-death event. Nearly 80% of NFS victims suffer lasting effects beyond the immediate assault.

Women are disproportionately affected by NFS. A February 2024 Domestic Homicide Review identified 80 NFS victims, 81% of whom were women, with 97% of perpetrators being male. Most victims were later killed by their perpetrators, often former intimate partners. Between 2000 and 2018, three-quarters of all homicide victims from NFS were women.

The Role of Social Media

A 2020 BBC survey revealed that nearly 40% of UK women aged 18-39 reported experiencing choking, strangulation, or gagging during sex, with 42% feeling pressured into these acts. This highlights the cultural factors contributing to the normalisation of NFS. The 'We Can't Consent to This' campaign addresses how NFS is framed as part of "rough sex," which normalises violence against women. Pornography often depicts women being "choked", and a 2022 BBC survey found that 57% of men who committed violent acts during sex cited pornography as an influence. Social media platforms, including TikTok, further perpetuate this behaviour with harmful hashtags like #chokeme and #breathplay.

Although explicit data linking (so called) consensual strangulation to abusive or homicidal behaviour is limited, the normalisation of strangulation in sexual contexts leads to society's increased acceptance of violence against women. This highlights the need for legal reforms and public awareness campaigns to mitigate these risks.

Research by Munro and Dangar (2021) highlighted correlations between coercive control, NFS, and domestic abuse-related suicides. Their analysis found that perpetrators in suicide cases were three times more likely to have engaged in coercive control and four times more likely to have a history of NFS. These findings further stress the urgent need to address this life impacting/ending form of abuse.

Data and Statistics

From June to December 2022, 8,375 NFS offences were reported across 27 police forces in England and Wales, yet only 971 charges were brought. This highlights the prevalence of NFS despite low convictions. However, compared to other recently introduced offences, such as 313 prosecutions for upskirting (2019-2022), the charge rate for NFS is relatively high. With an overall charge rate of 5.6% for all crimes and 6.8% for domestic abuse, the 10% charge rate for NFS shows that, although improvements are needed, the offence is being used more effectively than others.

NFS drastically increases the risk of homicide and has serious psychological effects, including a potential link to suicide.

Why Scotland Must Act

Establishing NFS as a standalone offence in Scotland will signal zero tolerance for such acts, ensure appropriate consequences for perpetrators, and enhance victim protection. It will also deter future harm and reinforce Scotland's commitment to addressing domestic abuse.

Scotland must not lag behind other parts of the UK in recognising the severe threat posed by NFS. Immediate legislative action is needed to address this gap in protection and justice for victims of domestic abuse.

Conclusion

Scotland must follow England, Wales, and Ireland by making NFS a standalone crime. This will signal zero tolerance, ensure proper consequences for perpetrators, improve victim protection, and reinforce Scotland's commitment to addressing violence against women. Scotland cannot lag behind in addressing this critical gap in justice for victims.

The Scottish Government has a vital opportunity to protect victims, prevent further harm, and raise public awareness about the serious risks of NFS. By recognising it as a standalone crime, Scotland can send a clear message that NFS is unacceptable, helping to prevent future abuse and prevent more precious lives from being irreparably damaged and/or lost.