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Convener, Criminal Justice Committee
The Scottish Parliament
Edinburgh
EH99 1SP

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By email: justicecommittee@parliament.scot

Dear Convener,

Thank you to the Committee for writing to the Lord Advocate and to the Lord Advocate for her considered response. I appreciate the opportunity to engage further on this critically important issue.

As the petitioner calling for a standalone offence of non-fatal strangulation (NFS) in Scotland, please see my response as follows:

1.The Limits of Existing Legislation

While I appreciate the Lord Advocate's view that existing laws - such as assault, attempted murder, and the Domestic Abuse (Scotland) Act 2018 - cover NFS, I respectfully disagree that this offers sufficient protection or justice. Too often, NFS is treated as an "add-on" within broader domestic abuse charges. Many survivors report feeling that the gravity of what they endured is minimised or dismissed entirely. This lack of distinct recognition can be deeply invalidating and dangerous in terms of potential escalation.

Beyond the legal issues, this carries powerful symbolic weight. A standalone offence would send a clear message that NFS is a serious and distinct form of violence that warrants specific attention.

2. The Educative Value of a Standalone Offence

One might ask how legislation alone changes professional or public understanding. The answer lies in the educative function of the law. A distinct offence makes the dangers of

these harms visible, not just to the courts, but to professionals and to the public. Just as rape is treated as a standalone crime to emphasise its gravity, so too should NFS.

A specific law would reinforce to health professionals, educators, and frontline responders that this behaviour is a red flag for escalating harm, including homicide and suicide. It would also support victims in recognising the seriousness of their experiences and empower them to seek help.

3. Lack of Transparency in Prosecution Outcomes

While I acknowledge that NFS has in some cases been prosecuted as attempted murder or under existing assault laws, the absence of robust data collection or a standalone offence means there is no way to evidence or quantify these cases. NFS is not recorded as a distinct sentencing category, making it impossible to assess how consistently and seriously it is being treated across the justice system.

The Lord Advocate's position may reflect confidence in existing legal mechanisms, but the lack of data removes any potential for meaningful scrutiny.

4. Risk of Downgrading in Plea Negotiations

I would welcome clarity on whether charges involving NFS have ever been removed or downgraded as part of plea bargaining. If this has occurred - or if there is even potential for it to occur - it adds to the concern that the additionality of NFS can be treated as negotiable, again minimising the serious offence that it is. The very possibility of this happening supports the case for a standalone offence.

Furthermore, cases involving a single incident of NFS could currently be prosecuted as common assault, again overlooking the associated risks and minimising the severity of this high risk form of abuse.

5. Inconsistencies in Policing Response and Risk Assessment

Despite Police Scotland's assurances in terms of their practices, there remains a clear disconnect between their stated approach and victims/survivors' lived experiences. Frontline services report inconsistent use of the DASH risk checklist, with key questions on non-fatal strangulation often missed, resulting in overlooked disclosures and lost opportunities for effective intervention/prevention. A standalone offence would help close this gap by mandating training, standardising risk assessment, and ensuring this high risk form of abuse is consistently recognised and safely responded to.

6. Absence of Reliable Data

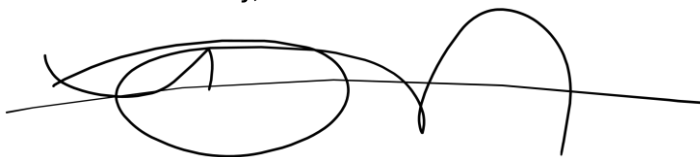
I welcome that COPFS is exploring the introduction of a data “marker” in partnership with Police Scotland and the courts, as the long-standing absence of reliable data on the prosecution of NFS is concerning. While a data marker is a step forward, a standalone offence would, without question, create a clear legal category, ensuring consistent and effective recording and tracking, whilst allowing for much needed data analysis.

8. Broadening Understanding Across Public Services

The justice system is not the only route through which survivors seek support - health professionals, counsellors, housing officers, and others are often among the first to hear disclosures of NFS. A standalone offence would send a clear signal across all public services, strengthening recognition of NFS as a serious crime and supporting a more joined-up, confident response to victims/survivors across all sectors.

I welcome the Lord Advocate’s offer to discuss this matter further and look forward to receiving an invitation to meet. I remain hopeful that, through continued engagement and by truly listening to the voices of victims and survivors, we can ensure that Scotland responds to non-fatal strangulation in a more comprehensive, proportionate and effective way.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'F' followed by a large, stylized 'D' and a horizontal line extending to the right.

Fiona Drouet MBE