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

## Petitioner written submission, 7 September 2026

EmilyTest has responded to the Scottish Government consultation on non-fatal strangulation (NFS). Our response is informed by our work to prevent gender-based violence (GBV). Our overall position is that, while Scotland already has important legal protections, there is a strong case for creating a standalone offence of non-fatal strangulation.

Our support is not simply about creating an additional route to prosecution. Naming NFS in law could improve recognition, data, professional practice, public understanding and, importantly, prevention.

**Existing protections and the limitations of DASA**

We recognise the significant protections already available under Scots law. NFS can be prosecuted as assault and, where it forms part of a course of abusive behaviour by a partner or ex-partner, can be incorporated within a charge under the Domestic Abuse (Scotland) Act 2018 (DASA). We strongly support retaining these protections, including the evidential advantages DASA can provide.

However, we do not believe the existing framework provides comprehensive protection or removes the case for a standalone NFS offence.

One important limitation is that DASA requires a “course of behaviour”, involving behaviour on at least two occasions. NFS can be the first or only identified incident of abuse. In those circumstances, it cannot by itself constitute a DASA offence. Given the seriousness of strangulation and its association with escalation and future serious harm, we do not believe specific recognition should depend upon someone experiencing further abuse.

Research has found that women previously subjected to NFS by an intimate partner are just under 8 times more likely of subsequently becoming a victim of homicide compared with abused women who had not experienced strangulation. NFS therefore needs to be recognised not simply as another method of assault, but as an important indicator of risk.

There is also a significant evidence gap in Scotland because NFS is not currently separately identifiable within criminal justice data. We cannot readily establish how frequently it occurs, how often it is incorporated within DASA cases or prosecuted through other offences, or the outcomes of those cases. We therefore support the Scottish Government's proposal for improved recording, but do not consider administrative recording an alternative to specific legal recognition. The two should complement each other.

We also do not see DASA and a standalone offence as competing approaches. A carefully designed offence could preserve the ability to incorporate strangulation

within a DASA course of conduct where appropriate, while enabling NFS to be specifically charged in other circumstances.

Scottish courts have demonstrated that they recognise the seriousness of strangulation when sentencing offenders. Recent cases, albeit not all, have described it as an “inherently dangerous and life threatening act” and recognised strangulation as an aggravating feature within serious patterns of domestic and sexual violence. However, sentencing takes place at the end of the criminal justice process. Our concern is also with what happens much earlier: whether victims/survivors, police, healthcare professionals and others recognise strangulation, understand its significance and respond appropriately.

**Public awareness and prevention**

A central part of our response concerns the role of law in prevention. NFS can cause serious harm without obvious external injury and remains poorly understood. There is also growing concern about its normalisation within sexual activity, particularly amongst younger people.

Research published by the Institute for Addressing Strangulation in 2025, involving 4,175 UK respondents aged 16–34, found that 55% had either been strangled or strangled someone during sex. Among sexually experienced 16–17-year-olds, 43% reported having been strangled. Almost three in ten respondents believed there were “safe ways” to engage in strangulation.

This highlights the need for much greater public education. Awareness work should challenge the idea that strangulation is a routine or expected part of sexual activity and address assumptions around consent, particularly where strangulation is introduced unexpectedly during a sexual encounter.

Importantly, COPFS has itself acknowledged the potential wider benefits of legislation. In evidence to the Scottish Parliament, Dr Emma Forbes identified “compelling reasons” for creating a specific NFS offence, including that it would immediately raise public awareness and make incidents easier to count.

The experience of England and Wales, where a standalone offence was introduced in 2022, is also relevant. Police recorded almost 24,000 strangulation and suffocation offences in the first year, rising to over 44,000 in the year ending June 2025. CPS charges increased from 1,483 in 2022–23 to 8,545 in 2024–25. While legislation alone cannot explain these increases, post-legislative review has identified improvements in recognition and understanding of strangulation as a high-risk indicator of escalating abuse.

There is also emerging international evidence suggesting specific NFS legislation may contribute to prevention. US research has associated the introduction of standalone NFS laws with reductions in intimate-partner homicide, although differences between legal systems mean these findings must be interpreted cautiously.

Our position is therefore that Scotland should consider a carefully drafted standalone NFS offence alongside improved recording, specialist training, public education and

professional guidance. It should not require evidence of visible injury, should apply both within and outside domestic abuse contexts, and should preserve Scotland's existing protections regarding consent rather than introducing a consent defence like that operating elsewhere.

**Conclusion**

I strongly encourage the Committee to take this issue forward and support further consideration of a standalone offence of non-fatal strangulation. I believe there is a strong case for examining not only whether existing law can prosecute NFS, but whether specifically naming it in law could strengthen recognition, improve public and professional understanding, support earlier intervention and, ultimately, help prevent further harm.