

Citizen Participation and Public Petitions Committee
Wednesday 23 April 2025
7th Meeting, 2025 (Session 6)

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

Introduction

Petitioner Fiona Drouet

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. [The Committee last considered this petition at its meeting on 19 March 2025](#). At that meeting, the Committee agreed to write to the Cabinet Secretary for Justice and Home Affairs, and to invite the Cabinet Secretary for Justice and Home Affairs to give evidence on the petition at a future meeting once a response has been received.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received a new written submission from the Cabinet Secretary for Justice and Home Affairs, which is set out at **Annexe C**.
4. [Written submissions received prior to the Committee's last consideration can be found on the petition's webpage](#).
5. [Further background information about this petition can be found in the SPICe briefing](#) for this petition.
6. [The Scottish Government gave its initial response to the petition on 18 February 2025](#).
7. Every petition collects signatures while it remains under consideration. At the time of writing, 2,063 signatures have been received on this petition.

Action

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

Clerks to the Committee
April 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: Extract from Official Report of last consideration of PE2136 on 19 March 2025

The Convener: That brings us to the last of this morning's new petitions. PE2136, on making non-fatal strangulation a stand-alone criminal offence in Scotland, has been lodged by Fiona Drouet.

We are joined in our consideration of this petition by our MSP colleague Tess White. Good morning, Ms White. I believe that you have been accompanied to the committee this morning by the petitioner, who is also in the gallery. Good morning. You will forgive me, but my eyesight is so bad that I have to assume that the petitioner is in the gallery.

The petition calls on the Scottish Parliament to urge the Scottish Government to make non-fatal strangulation a stand-alone criminal offence in Scotland. The SPICe briefing notes that in 2023, a publication on the prevalence of strangulation and suffocation found that one in four women accessing community and refuge services reported they had experienced strangulation or suffocation.

Other jurisdictions have introduced a stand-alone offence for non-fatal strangulation in recent years. England and Wales created a stand-alone offence of strangulation or suffocation, which came into force in June 2022. Northern Ireland created a new offence of non-fatal strangulation or asphyxiation, which came into force on 26 June 2023. Ireland created the stand-alone offence of non-fatal strangulation or non-fatal suffocation, which commenced on 1 November 2023.

The reason for introducing the stand-alone offence in all those 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.

The petitioner's submission argues that Scotland must keep pace with those changes by introducing non-fatal strangulation as a stand-alone criminal offence. The Cabinet Secretary for Justice and Home Affairs has responded to the petition. Her submission states that the Scottish Government

“will give serious consideration to the Petition”,

and emphasises the importance of understanding how any new law would interact with the offence of domestic abuse. Scottish Government officials will continue to progress considerations in the area, including through discussions with operational partners.

The petitioner's written submission states that the act of non-fatal strangulation

“can cause brain damage, organ failure, long-term physical and mental health problems and increases the risk of strokes and neurological disorders.”

The petitioner argues that establishing non-fatal strangulation as a stand-alone 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.”

Colleagues may have seen a degree of press reporting over the weekend on issues similar to those raised by the petition.

Before I ask committee members for comments on what we might now do, I ask Tess White to offer her thoughts to the committee.

Tess White (North East Scotland) (Con): I am grateful to the committee for the opportunity to speak to PE2136. I pay tribute to the petitioner Fiona Drouet, who is here in the committee room. Fiona lost her daughter Emily in the most tragic circumstances after her boyfriend abused her while they were students at the University of Aberdeen. I first became aware of the devastating physical and psychological impact of choking a sexual partner during a parliamentary event that I held with the women’s support service, Beira’s Place, towards the end of last year.

The issue had not come to my attention before then, but once you know about such a thing, you have to do something about it. As you said, convener, there are devastating effects. Within six to eight seconds, a woman loses consciousness. After 15 seconds, her bladder will be incontinent. After 30 seconds, her bowels will open. She will be brain dead within four minutes.

As Fiona has said herself, no one—no woman or girl—could ever consent to this; indeed, there comes a point where a woman or girl is physically unable to do anything about it. How can you consent to something if you lose consciousness? It is not “breath play”—that is a euphemism that men use. They say, “Oh, it’s just breath play during sexual intimacy.” It is not; it is truly frightening, and it can be a predictor of dangerous and potentially fatal behaviour.

The petition, as you have rightly said, convener, calls for a stand-alone criminal offence for non-fatal strangulation. My view is that the common-law offence of assault does not adequately capture the complexity of what is a startling and ever-growing problem. In recognition of the fact that, as the committee has just heard, non-fatal strangulation can occur without obvious physical injury, England, Wales, Northern Ireland and Ireland have already introduced stand-alone offences with robust penalties.

I note, as does Fiona Drouet, the concerns expressed by the Cabinet Secretary for Justice and Home Affairs about unintended consequences and what she has said to the committee about having a separate law, especially its interaction with existing domestic abuse legislation. However, that response does not cover two key points. This is a form of abuse and control; it can be part of domestic abuse, but it is also part of violence against women. It is also a non-consensual act. So, although I acknowledge the need to stress test any changes to the current law in Scotland, I am massively concerned that the Scottish Government is kicking the can down the road. This feels like yet another issue impacting women that is being pushed to the bottom of the legislative agenda.

Finally, convener and committee, as a Parliament, we have a year to go—please do not allow this to be lost. We could be talking about your daughters or your nieces. Something needs to be done. The Scottish Government now has an opportunity to signal a zero-tolerance approach to non-fatal strangulation, and I urge it to act with the urgency that the issue deserves.

The Convener: Thank you, Tess White. Having read through the papers and the detail that we received, I have to say that this was a practice of which I, too, was largely unaware. As you have said, when one is confronted with the detail, it seems that there really is a requirement for the Parliament to be proactive and for the Government to take a legislative lead, particularly in light of the fact that other Parliaments across these islands have already taken that step. It does not seem really adequate that Scotland should be trying to find difficulties where clear direction is required and, indeed, has been given by legislative moves and the legal framework elsewhere in the United Kingdom.

I do not know whether you feel similarly, colleagues, but are there any views as to how we might proceed? I think that we really need to be very direct in our questions to the Cabinet Secretary for Justice and Home Affairs, because I do not think that we will want to allow this to languish. Are there any suggestions as to what we might seek to clarify with the cabinet secretary?

Maurice Golden: We will have data from elsewhere in the UK, but I note the cabinet secretary's point that such an offender can be sentenced "up to life imprisonment". I am not clear, based on the data that we have for Scotland, whether the High Court has dealt with such cases, and ultimately it is only the High Court that can sentence someone up to life imprisonment. I do not know, but I suspect that many of these offences are going to the sheriff court, which would mean up to five years' imprisonment. That is significantly different from the suggestion that the cabinet secretary has made.

Therefore, I wonder whether we can attempt to find out where these offences are going and how many there are in Scotland. I appreciate that it will be under common law, but it is possible that, with work, we can find out some of the statistics. It would at least clarify the point about life imprisonment.

Fergus Ewing: I agree with that. We should write to the cabinet secretary to seek further data on the extent to which sexual assaults involving strangulation have been treated differently. We should find out in how many cases that was found to have been the case and what analysis has been done of those statistics. Do such statistics exist? Is that information retained properly?

As Mr Golden said, the sheriff court has limited sentencing powers. It has been a long time since I was in the sheriff court—three decades—but I think that it is possible for a sheriff to remit sentencing to the High Court if he feels that the maximum sentence that he has the power to give is inadequate.

Be that as it may, I would have thought that every such case should be dealt with under solemn proceedings, not least because, as the petitioner points out, non-fatal strangulation often signals a heightened risk of homicide. It is quite staggering that a

BBC survey showed that 40 per cent of women aged 18 to 39 in the UK reported experiencing choking, strangulation or gagging during sex. That is a hugely worrying percentage. We should therefore seek further data from the cabinet secretary.

We should also seek details of when officials will meet partners, because, in our view, the matter should be approached with great urgency and not be left to drift for months, as so many things do. We should ask whether officials and the cabinet secretary will engage directly with the petitioner and get a timeline for the work.

When asking for all that, we could indicate that we might well be minded to hear evidence from the cabinet secretary, given the interest in the issue. All the other countries in the UK seem to have taken action to deal with it, so why are we at the coo's tail? Although the current system can work in theory, I feel instinctively that, in practice, it is probably not working as it should.

I am grateful to Tess White for setting out these extremely serious matters with such lucidity. I wanted to supplement Mr Golden's suggestions with those remarks.

Foyso! Choudhury: I agree with my colleagues. It is very important that we ask the Scottish Government to work with the petitioner and to provide a timeline.

The Convener: I am minded to seek clarity on that point in particular, given that the parliamentary session now has only 14 months left to run. It is important that we try to provide some momentum behind anything that is being considered or justified, in relation to what might be being done or not done, in order to progress the aims of the petition.

Fergus Ewing: To be fair to the cabinet secretary, she has said:

“I remain open minded towards the proposal”,

so this is not a case of the Government saying, “No, we're not doing that.” If it had said that, our response at this stage of a parliamentary session might be to leave the matter to the next election, when people can vote for parties that will do what they feel is correct in a democracy. We are not at that stage. If the cabinet secretary thinks that what the petition proposes can be done, why can it not be done soon, before the next election? Why can we not just do things in this Parliament, with this Government?

The Convener: Exactly. Are we content to keep the petition open and to take forward its aims as suggested?

Members *indicated agreement.*

The Convener: We thank the petitioner, and we thank Tess White for her contribution.

Annexe C: Written submission

Cabinet Secretary for Justice and Home Affairs written submission, 14 April 2025

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

Thank you for your letter of 21 March 2025 asking for an update on our considerations of [PE2136: Make non-fatal strangulation a standalone criminal offence in Scotland](#). I also understand that the Committee Clerk has already been in touch with my Private Office to ascertain my availability to attend and provide further evidence although the following may well negate that need.

I am sure you will be aware that the issue of non-fatal strangulation was mentioned during the [Stage 1 debate](#) on the Criminal Justice Modernisation and Abusive Behaviour Reviews (Scotland) Bill on Tuesday 1 April.

My comments made during the debate reiterate my position outlined in the correspondence dated 18 February 2025, namely that I am giving serious consideration to the Petition, and I remain committed to that approach.

I fully recognise the serious issue of non-fatal strangulation, which is an abhorrent type of abuse, and can have significant physical and psychological impact on victims, as noted by the Petition.

My officials have had discussions with operational partners on the Petition, and will continue to have further engagement with relevant stakeholders, including the Petitioner, as part of the ongoing work in this area.

There is also merit in looking at alternative approaches, including the use of an aggravation in this context, as a means of delivering the same outcomes - alongside exploring what more the justice system could do within existing procedures. For example, this could include specific sentencing guidelines to ensure that following conviction for an offence involving non-fatal strangulation, the court reflects this behaviour within the sentence. In that context I am also following your consideration of the Petition as you look to conclude your views, which is an important part of the process.

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

I note that the Committee would welcome further information to illustrate how such offences are handled in practice. In the discussions my officials have had with COPFS they have confirmed that cases involving non-fatal strangulation are approached in the same way as all other forms of serious offending. Where non-fatal strangulation occurs in the context of sexual offending the case will be dealt with within specialist units in COPFS and the presence of non-fatal strangulation within the offending will be reflected in the prosecutorial action taken.

There are a range of crime types under which a physical attack involving non-fatal strangulation (at least in part) could be recorded. Examples include attempted murder, serious assault, common assault, robbery, rape/attempted rape and sexual assault. However, I understand that there is currently no individual marking used to record and monitor instances where non-fatal strangulation is present in an offence.

Instances of non-fatal strangulation may be labelled in a variety of different ways within a charge depending on the facts of the case and offence. This is an area where further discussions are progressing.

[The Scottish Crime Recording Standard](#) includes further guidance for police officers on considering the severity of strangulation, to determine the appropriate crime to record (for example an assault versus attempted murder). Should any case of strangulation result in the death of a victim, information is available from the Homicide in Scotland Official Statistics (which show 10 victims of strangulation or asphyxiation over the five years of 2019-20 to 2023-24).

In the context of sexual offences, information is not available that specifically identifies where a sexual offence included non-fatal strangulation. If it occurred as part of any non-consensual sexual activity, this would form part of the offence (e.g. rape). If the offence happened separately, then both a crime of rape and a second crime for the non-fatal strangulation would be recorded (such as an attempted murder, assault etc.). If it was established that there was consent to sexual activity, but not the strangulation, any non-fatal strangulation would most likely be recorded as a sexual assault given the sexual element.

Discussions between my officials and SCTS also confirmed that while SCTS hold data on convictions and disposals, the foundation of the data sets is charge codes and whilst cases can be identified in relation to common assault, there appears to be no specific charge code(s) for common assault where non-fatal strangulation was a component of the offence.

While I have yet to conclude on a way forward, I hope it is evident that I am giving this matter serious consideration and wholly recognise the desire by some to explore the current legislative opportunities to do so.

I will ensure you are kept advised as that work moves forward.

Yours sincerely,

ANGELA CONSTANCE