

**Domestic Abuse Bill**

**Campaign for an offence of non-fatal strangulation to save lives**

**Summary**

This campaign is calling for a free-standing offence of non-fatal strangulation1 or

suffocation to be added to the Bill. This can be done in the House of Lords where it will

start its progress at a date yet to be fixed, but expected to be either this month or next.

Non-fatal strangulation is a frequent tool of coercive control used against women by

men. It is a threat to do serious harm or to kill but which often leaves no mark. Police do

not take it seriously if there is no injury. Yet its use **increases 8 fold** the risk that the

victim will ultimately be killed by the perpetrator. Sometimes there are injuries though

they are not visible and women can suffer considerable damage.

The Victims Commissioner for England and Wales, the Designate Domestic

Abuse Commissioner, the Centre for Women’s Justice and a large number of

domestic abuse charities support this as essential to deter perpetrators and to

save victims lives

We are asking for your help to promote the need for the amendment, to lobby peers to

speak and vote in favour of it and to lobby the relevant government ministers to persuade

them to accept the amendment. The Commons Ministers are Alex Chalk (Cheltenham)

and Victoria Atkins (Louth& Horncastle) the Lords Ministers are not yet known.

The Government has said that it is ‘tepid’ as to whether there should be such an offence

We need to generate some heat!

**The proposed amendment to the Domestic Abuse Bill**

**“New offence of non-fatal strangulation**

A person (A) commits an offence if that person unlawfully strangles or suffocates

another person (B).

A strangles or suffocates B if A impedes B’s breathing, blood circulation, or both, by

doing any of the following (manually or using any aid): (i) blocking B’s nose, mouth, or

both; or (ii) applying pressure on, or to, B’s throat, neck, chest or more than one of

these.

A person guilty of an offence under this section is liable –

(a) on summary conviction-

(i) to imprisonment for a term not exceeding 12 months (or 6 months, if the offence was

committed before the coming into force of paragraph 24(2) of Schedule 22 to the

Sentencing Act 2020), or

(ii) to a fine, or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or to a

fine, or both.”

A second version of the amendment limits the offence to domestic abuse cases only,

where A and B are personally connected. The desired amendment is the first one but

the second is in place in case there is an argument about whether the Bill can be used

to criminalise behaviour which is not about Domestic Abuse, given its title.

**What is non-fatal strangulation?**

It is widely recognised that non-fatal strangulation and suffocation (e.g. with a pillow) are a common feature of domestic abuse and a well-known risk indicator.2 Strangulation / suffocation is the second most common method of killing in female homicides - 29% of adult women3 In addition, research highlights how non-fatal strangulation is frequently used as a tool to exert power and control, and to instil fear, rather than being a failed homicide attempt.5 It sends the message ‘if you do not comply this is how easily I could kill you’.

**What are the physical effects?**

Reports describe strangulation as extremely painful and the inability to breathe as

terrifying. Loss of consciousness can occur in 10 to 15 seconds and lack of oxygen to

the brain can result in mild brain damage. Although there is little or no visible injury,

numerous longer-term effects are reported: fractured trachea/larynx, internal bleeding,

dizziness, nausea, tinnitus, increased risk of miscarriage, and neurological injuries such

as facial and eyelid droop, loss of memory and even stroke several months later as a

result of blood clots. Medical research points to strangulation as the second most

common cause of strokes in women under 40.6

**How common is it?**

Reports describe it as ‘a hidden epidemic’ within intimate partner violence7. A range of

studies indicates that whilst lifetime incidence of strangulation is between 3% and 9.7%

in the adult population, this rises to 50-68% for victims of recurrent abuse. Two studies

of intimate partner violence and sexual assaults where medical examinations took place

found that strangulation was involved in 20% and 23% of cases respectively.8 In the UK

an estimated 20,000 women per year who have been assessed as high risk domestic

abuse victims have experienced strangulation or attempted strangulation.9

**The current legal position**

There is no offence of non-fatal strangulation or suffocation10 and it can be

difficult/unrealistic to seek to prove intent for an offence of attempted murder. In the

majority of cases prosecutions could be brought for assault. The lack of observable

injuries means that offenders’ conduct is often minimised, and they are charged with

common assault rather than with the more serious offence of actual bodily harm (ABH).

CPS guidance states that when deciding whether to charge with common assault or

ABH:11

Whilst the level of charge will usually be indicated by the injuries sustained, ABH may be

appropriate……:[where] the circumstances in which the assault took place are more serious

e.g. repeated threats or assaults on the same complainant or significant violence (e.g. by

**strangulation or repeated or prolonged ducking in a bath**, particularly where it results in

momentary unconsciousness.) (emphasis added)

However, despite the guidance, it is the experience of domestic abuse charities across

England and Wales that almost all cases of strangulation are charged as common

assault. This seems to be a systemic issue not one of local failings. Police officers are

not applying the CPS guidance.

**Charging decisions**

Common assault is a ‘summary’ offence which can only be heard in the Magistrates

Court, whereas ABH is an ‘either way’ offence which can go to the Magistrates or the

Crown Court. Frontline support workers report that police officers focus primarily on

physical injuries when they assess domestic abuse situations. Strangulation and

suffocation leave minimal visible injury, either nothing at all or just a red mark. They are

therefore easily dismissed by police officers as minor.

Cases frequently result in no prosecution at all, not even for common assault, because

the six-month deadline for charging this summary offence has passed. If cases are

treated as ABH there is no time limit for charging. A new offence of non-fatal

strangulation must be an ‘either way’ offence to reflect the severity of the conduct involved and remove

time restrictions.

 **Police training**

Most domestic abuse cases are dealt with by generalist officers without specialist knowledge on domestic abuse. Whilst most police forces do provide some training on this, support workers working with victims report that officers are often unfamiliar with their own force guidance on domestic abuse. A new and specific offence will send a crystal clear message to police officers about this dangerous crime, in the way that yet another issue within training can never do.

**Risk assessment**

 A separate offence of non-fatal strangulation will also help the police to identify this critical risk factor in their response to domestic abuse. This could save lives. Research has found that a history of strangulation presents an **eight-fold** increase in the risk of death.12 Lack of understanding by police officers is illustrated by the Coroner’s report in 2019 following the inquest into the death of Anne-Marie Nield: Anne-Marie Nield died during a sustained assault by her partner, who had previously subjected her to non-fatal strangulation. Officers who dealt with the previous incidents failed to appreciate the significance of strangulation as a risk factor and graded her risk as standard rather than high. There was no support offered to her and no referral to the multi-agency panel. The Coroner expressed concern that at the time of the inquest, two and a half years later there was still no reference to non-fatal strangulation in the police force’s domestic abuse policy and there continued to be a lack of understanding amongst the officers involved.

**The international picture**

Under-charging of strangulation has been identified as a problem in the US, Australia and New Zealand.13 In the US 37 states have introduced non-fatal strangulation offences14 and in Australia the state of Queensland introduced the offence in 2016, with other states due to follow.15 A new offence came into force in New Zealand in December 2018.16 The New Zealand Commission considered that a new offence would be a more effective criminal sanction than the existing options and would increase awareness of the significant dangers of strangulation and generally improve the safety of victims of domestic abuse.17

**Conclusion**

 A freestanding offence of strangulation or suffocation which is an ‘either way’ offence will require police to treat such cases with the gravity they deserve. It will also draw the attention of prosecutors to the seriousness of this form of offending, and trigger training around the particular links between strangulation / suffocation, domestic abuse and homicide. We believe it is necessary to deter perpetrators and to save lives.

For more information contact the Office of the **Victims Commissioner**

**Victims.commissioner@victimscommissioner.org.uk**

1 The definition of strangulation / suffocation is taken from the New Zealand law introduced in December 2018

 2 The standard risk assessment tool for domestic abuse is the “DASH” checklist which includes a question about attempts to strangle, choke, suffocate, or drown the victim /survivor. The questions in the DASH checklist have been identified through extensive research on factors associated with serious domestic violence and homicide https://safelives.org.uk/sites/default/files/resources/Dash%20risk%20checklist%20quick%20start%20guidance%2 0FINAL.pdf

 3 The Femicide Census for 2018 page 28 <https://femicidescensus.org/wp-content/uploads/2020/02/Femicide-Census-Reporton-2018-Femicides-.pdf>.

5 See for example research by Thomas, Joshi and Sorenson (2014) <https://repository.upenn.edu/cgi/viewcontent.cgi?article=1190&context=spp_papers>

 6 See the survey of medical literature by Bichard, Byrne, Saville and Coetzer (2020) <https://psyarxiv.com/c6zbv/>

8 Ibid

 9 Based on figures collected by the charity Safelives

10 Section 21 Offences Against the Person Act 1861 has an offence of attempting to choke, suffocate or strangle in order to commit an indictable offence, but this only applies done in order to commit some other serious offence

11 <https://www.cps.gov.uk/legal-guidance/offences-against-person-incorporating-charging-standard>

 12 Glass et al., (2008) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2573025/>

13 <https://www.lawcom.govt.nz/sites/default/files/projectAvailableFormats/NZLC-R138.pdf>

14 Gwinn, Strack and Mack (2014) ‘Law Reform Targets the Crimes of Strangulation’

 15 <https://www.policyforum.net/red-flag-homicide/>

 16 New Zealand Law Commission <https://www.lawcom.govt.nz/news/new-strangulation-offence>

17 New Zealand Law Commission report paragraphs 1.16 to 1.18 see note 13 above