

FACULTY OF FORENSIC & LEGAL MEDICINE

of the Royal College of Physicians of London



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Registered Charity No 1119599

13 August 2024

FAO Lisa Frost,
The Sentencing Council

By email: consultation@sentencingcouncil.gov.uk

Dear Ms Frost,

I write on behalf of the Faculty of Forensic & Legal Medicine, with our response to this very important Consultation, which we welcome.

The FFLM works closely with colleagues at the Institute for Addressing Strangulation, (IFAS), [IFAS - Institute for Addressing Strangulation](http://www.ifas.ac.uk). Through their work and that of others, the risks associated with non-fatal strangulation and suffocation are now beginning to be fully recognised. The very fact these are now 'stand-alone' offences, rather than considered as a factor contributing to 'higher culpability', in existing 'assault offences', indicates significant progress. In particular, as noted on page 3 of the document: ***'...the ABH guideline assesses actual harm caused, and in the absence of physical injuries sentences were not always reflective of the seriousness of the harm caused or risked by an offence'***.

Question 1: What is your name?

Dr Bernadette Butler

Question 2: What is your email address?

President@fflm.ac.uk

Question 3: Are you answering as an individual? If so, are you happy for your name to be included in the consultation response document?

No

Question 4: If you are answering on behalf of an organisation, group or bench, please provide the name of the organisation, group or bench.

The Faculty of Forensic & Legal Medicine of The Royal College of Physicians

Question 5: Do you have any comments on the proposed culpability factors?

The use of a ligature in the higher culpability category is appropriate. However, we wonder if consideration was given to other mechanisms, such as a headlock, or knee across the neck, where the pressure exerted would be greater? Perhaps they should be specifically noted in the guidance?

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Question 6: Are there any factors you consider could unfairly impact certain groups in respect of (for example) sex, age or ethnicity?

The statistics mentioned in the document highlight that NFS is a 'gendered' crime; therefore, this must be acknowledged and not seen as having an unfair impact, in terms of sentencing, on one sex.

Question 7: Do you have any comments on the proposed harm factors?

The discussion around the categories of harm is helpful. However, whilst may seem appropriate to have a higher harm category and 'all others', consideration needs to be given to the psychological impact. Many complainants will comment on their experience with words to the effect. *'I thought I was going to die; I thought they were going to kill me'*. We consider a significant majority of offences will fall into this higher category. Is this what is anticipated?

Question 8: Are there any factors you consider could unfairly impact certain groups in respect of (for example) sex, age or ethnicity?

Please see the answer to Q6, above.

Question 9: Do you have any comments on the proposed sentence levels?

No, other than we assume, if the consequences of the assault involving NFS resulted in: *"permanent, irreversible injury or condition which has a substantial and long-term effect on the victim's ability to carry out their normal day to day activities or on their ability to work"*; (see page 11), it would have been assessed and charged as a Category A GBH, in the first place.

Question 10: Do you have any comments on the proposed aggravating factors?

We agree that many offences will occur in a domestic setting/intimate relationship, which we note is an existing aggravating factor. However, has consideration been given to the victim being pregnant, as a statutory aggravating factor?

Question 11: Are there any factors you consider could unfairly impact certain groups in respect of (for example) sex, age, or ethnicity?

Please see the answer to Q6, above.

Question 12: Do you have any comments on the proposed mitigating factors?

We had difficulty understanding: *'Prospects of or in work, training or education'* as a mitigating factor.

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Question 13: Are there any factors you consider could unfairly impact certain groups in respect of (for example) sex, age or ethnicity?

Please see the answer to Q6, above.

Question 14: Do you have any other comments on the proposed guideline that have not been covered elsewhere?

Our only other comment is to ensure that the Judiciary, that is those undertaking the sentencing, have adequate background information, education and training, such that they are properly informed to hand down appropriate sentences for these offences.

Thank you again for the opportunity to comment.

Yours sincerely,

Dr Bernadette Butler
President, FFLM