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Criminalising Non-Fatal Strangulation in the United Kingdom: Comparative Legal Analysis and Early Evidence on Intimate Partner Homicides*

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Abstract

This article examines how non-fatal strangulation and suffocation (NFS) conduct is criminalised across UK jurisdictions and whether the introduction of a standalone NFS offence in England and Wales is associated with changes in intimate partner homicide (IPH). Its principal contribution is comparative and legal: it shows how England and Wales, Northern Ireland, and Scotland differ in defining, charging, and proving NFS-type conduct. The analysis argues that standalone offences give NFS specific visibility as a high-risk form of coercive violence, reduce reliance on visible injury, and create clearer evidential, charging, and recording pathways. By contrast, Scotland's reliance on general assault, attempted murder, sexual offences where relevant, and course-of-behaviour domestic abuse legislation offers serious legal responses but less offence-specific labelling of NFS as a distinct risk marker. Exploratory difference-in-differences analysis suggests declines in female-victim IPH counts in England and Wales, but causal inference is limited by pre-trends, rare-event volatility, and short follow-up.

Keywords: Non-fatal strangulation; intimate partner violence; intimate partner homicide; domestic abuse law; offence design.

JEL codes: K14; K42; J12; J16; I18.

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1. Introduction

Intimate partner violence (IPV) remains a persistent public health and criminal justice concern, with intimate partner homicide (IPH) representing its most extreme outcome (Spencer and Stith, 2020). A growing body of medical and forensic research identifies non-fatal strangulation and suffocation (NFS) as a particularly dangerous form of IPV, associated with elevated risks of serious injury, neurological harm, and subsequent lethal violence (Glass et al., 2008; De Boos, 2019; Bichard et al., 2022; Monahan et al., 2022; Campbell et al., 2018; Valera et al., 2019). Despite this emerging consensus, criminal justice systems differ substantially in how strangulation is defined, investigated, charged, and proved, with potentially important consequences for victim protection and case outcomes (Edwards and Douglas, 2021; Bettinson, 2022; Garza, Goodson and Franklin, 2021; Reckdenwald et al., 2019).

Within the United Kingdom, recent legislative reforms have created a limited but informative comparative setting. England and Wales and Northern Ireland have introduced standalone offences specifically criminalising NFS, while Scotland continues to rely on broader domestic abuse legislation and general assault doctrines (Domestic Abuse Act 2021, s. 70; Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022, s. 28; Domestic Abuse (Scotland) Act 2018; see also Bettinson, 2022). These divergent approaches raise important criminal justice questions regarding offence design, evidential burdens, charging pathways, enforcement practice, and whether offence-specific recognition may facilitate earlier intervention in high-risk cases.

This paper examines how NFS conduct is criminalised across UK jurisdictions and asks whether differences in offence design may matter for the identification and interruption of high-risk domestic abuse. Its principal contribution is comparative and legal. It provides a structured analysis of how NFS-type conduct is treated across England and Wales, Northern Ireland, and Scotland, focusing on offence construction, *mens rea* requirements, evidential issues, charging pathways, and victim-protection implications. The quantitative analysis is an exploratory extension: it examines whether the introduction of the standalone England and Wales offence is associated with changes in IPH relative to Scotland, while recognising that the available data permit only cautious descriptive inference.

The legal analysis shows that England and Wales, Northern Ireland, and Scotland have adopted materially different legal architectures for NFS-type conduct. England and Wales and Northern Ireland now use standalone offences that do not require proof of visible injury, while Northern Ireland's formulation also expressly refers to blood flow to the brain. Scotland, by contrast, relies on common law assault, attempted murder, sexual offences where relevant, and the Domestic Abuse (Scotland) Act 2018's course-of-behaviour framework. These routes may provide substantial sentencing powers, but they do not produce the same offence-specific labelling, recording, or charging pathway as a standalone NFS offence. The empirical analysis finds a post-reform relative decline in

female-victim IPH counts in England and Wales, but this pattern is not mirrored by statistically precise rate estimates and is limited by evidence that the England and Wales–Scotland gap was already narrowing before the reform.

By integrating comparative legal analysis with exploratory quantitative evidence, the paper contributes to comparative and applied criminal justice scholarship on offence design, domestic abuse enforcement, and the evaluation of legal reforms intended to improve intervention in high-risk cases. The applied criminal justice significance of NFS criminalisation lies not only in penalties, but also in whether offence design improves recognition, recording, charging, and system response to high-risk violence. Standalone offences may reduce reliance on visible injury, clarify prohibited conduct, and create clearer charging routes in cases where victims experience fear, coercion, loss of consciousness, or other serious effects despite limited external marks. Comparative analysis is therefore useful not only for doctrinal reasons but also for understanding how legal architecture may influence enforcement and victim protection.

The paper proceeds as follows. Section 2 develops the comparative legal analysis and explains how offence design motivates the empirical hypothesis. Section 3 describes the homicide data and exploratory empirical specification. Section 4 reports descriptive patterns, difference-in-differences estimates, and pre-trend diagnostics. Section 5 discusses the implications for comparative criminal law, empirical legal studies, and current policy debates in Scotland.

2. Comparative legal framework

The analysis proceeds in two stages. First, it compares the legal treatment of NFS-type conduct across England and Wales, Northern Ireland, and Scotland. Second, it uses that comparison to motivate an exploratory empirical exercise examining whether the England and Wales standalone offence is associated with changes in IPH relative to Scotland. The empirical exercise is presented as an early assessment of whether the hypothesised legal mechanism is visible in severe violence downstream outcomes, namely, IPH.

2.1. Overview of UK legal developments

While domestic abuse has historically been prosecuted under general offences, the past decade has seen a shift toward course-of-conduct offences and the targeted criminalisation of non-fatal strangulation. **Table 1** summarises the key legislative developments across UK jurisdictions relevant to this shift.

Against that legislative background, UK jurisdictions now diverge substantially in how non-fatal strangulation is defined, charged, and proved. Although NFS is widely recognised in medical and forensic literature as a high-risk form of violence associated with severe injury and elevated homicide risk (Glass et al., 2008; Strack and Gwinn, 2020; White et al., 2021; Bichard et al., 2022; Valera et al., 2019), jurisdictions within the UK have adopted markedly different doctrinal, evidential, and institutional responses. **Tables 2–4** provide a structured legal analysis of these differences, detailing (i) the existence and elements of standalone NFS offences, (ii) alternative criminal offences commonly used to prosecute strangulation-type conduct where a standalone offence is absent or unsuitable, and (iii) comparative implications for evidence and victim experience.

2.2. England and Wales

In England and Wales, Parliament introduced a dedicated NFS offence through Section 70 of the Domestic Abuse Act 2021, which inserted Section 75A into the Serious Crime Act 2015 (Domestic Abuse Act 2021, s. 70; Bettinson, 2022). The offence criminalises (a) intentional strangulation, or (b) any other intentional act that affects a victim's ability to breathe and constitutes a battery. Proof of visible injury or physical harm is not required, reflecting the reality that strangulation can be medically serious even where external injury is absent. The elements and commencement date of the offence are summarised in **Table 2**.

This legislative approach reflects two central policy choices. First, the *actus reus* is framed around interference with breathing rather than injury. Second, the *mens rea* requires intention to perform the prohibited act, not intention to cause injury. Together, these features are designed to reduce evidential barriers and may make prosecutions more feasible in cases where visible injury is absent, while still requiring proof of the statutory elements.

2.3. Northern Ireland

Northern Ireland adopted a similar but broader standalone framework through Section 28 of the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022. Like England and Wales, the offence does not require proof of actual injury. However, it differs in two important respects. First, it explicitly references interference with breathing or the flow of blood to the brain. Second, it adopts a broader *mens rea*, covering both intention and recklessness regarding those effects. The statutory elements, penalties, and commencement date are summarised in **Table 2**, and the evidential and victim-impact implications are compared across jurisdictions in **Table 3**.

2.4. Conceptual differences in offence construction

A key doctrinal difference between England and Wales and Northern Ireland concerns the statutory framing of physiological harm. Section 75A in England and Wales focuses on acts affecting the victim's "ability to breathe." From a physiological perspective, this may understate a core medical risk of strangulation, which often involves restriction of cerebral blood flow through compression of the carotid arteries. Severe injury may therefore result from interruption of blood flow to the brain as well as from oxygen deprivation (Strack et al., 2020; White et al., 2021). Northern Ireland's formulation directly addresses this concern by referencing blood flow to the brain within the statutory *mens rea*, potentially aligning more closely with the mechanisms through which strangulation causes serious harm and long-term health consequences (Glass et al., 2008; Strack and Gwinn, 2020; White et al., 2021; Bichard et al., 2022; De Assis et al., 2025).

This difference also places the UK comparison in a wider comparative context. Most U.S. state NFS statutes expressly include both impediment of breathing and impairment of blood circulation (De Assis et al., 2025). Jersey's 2026 legislative reform similarly defines strangulation to include both restricting breathing and restricting blood flow to the brain. The contrast in statutory construction is summarised in **Table 2**, while broader practical implications for proof and victim experience are captured in **Table 3**.

2.5. Scotland's generalised framework

In contrast, Scotland does not recognise a specific statutory offence of non-fatal strangulation. Prosecutors instead rely on broader routes, including the Domestic Abuse (Scotland) Act 2018 (DASA 2018), common law assault, attempted murder, and sexual offences where relevant. Under DASA 2018, criminal liability requires a course of behaviour that is abusive and that a reasonable person would consider likely to cause physical or psychological harm, coupled with intention or recklessness as to that harm. Because the statutory framework is designed to capture coercive control and sustained domestic abuse, it may be less well-suited to single-incident events such as strangulation (Myhill and Hohl, 2019; Thomas, Joshi and Sorenson, 2013; Stansfield and Williams, 2021; Bendlin and Sheridan, 2019), particularly where there is limited corroborating evidence or visible injury, and where incidents are not reported to or recorded by the police.

Scotland's reliance on DASA 2018 rather than a standalone NFS offence is summarised in **Table 2**, and the associated evidential and victim-impact issues are compared in **Table 3**.

This is not to suggest that DASA is weak or ineffective. Its course-of-behaviour structure may be particularly valuable where strangulation forms part of a broader pattern of coercive control. The specific question for this paper is whether the absence of a standalone NFS offence affects legal labelling, recording, charging pathway, and the treatment of strangulation incidents.

2.6. Common law assault and the “serious assault” label

Where DASA 2018 is unsuitable, Scottish prosecutors may proceed under common law assault. More aggravated cases may be described as “serious assault”; however, “serious assault” is a sentencing characterisation rather than a distinct offence. In practice, serious assault is typically associated with objective aggravating features such as weapon use, severe injury, extreme violence, or life-endangering conduct. Because NFS may involve no weapon and may leave limited or no visible injury, strangulation incidents may be harder to characterise as serious assault under general assault frameworks unless the prosecution can establish life-endangering conduct, corroborating evidence, or other aggravating circumstances. These institutional and evidential contrasts — particularly the mismatch between the medical risks of NFS and injury-centred evidential expectations under general assault — are set out comparatively in **Table 3**.

Scotland's alternative charging routes, including common law assault and attempted murder, and their role in strangulation-type cases are summarised in **Table 4**. This table shows that, although alternative offences are available across jurisdictions, their practical importance is greatest in Scotland, where no standalone NFS offence exists.

2.7. Implications for victims and enforcement

These doctrinal differences generate distinct enforcement environments. The standalone offences in England and Wales and Northern Ireland are designed to reduce evidential barriers by allowing prosecution without proof of injury, directly addressing the practical difficulties posed by NFS cases that leave minor or no external marks (Edwards and Douglas, 2021; Kelly and Ormerod, 2021; Bettinson, 2022; Douglas and Fitzgerald, 2022; Pritchard et al., 2018). By contrast, Scotland's reliance on DASA 2018 and common law assault may make prosecution more difficult in strangulation cases, particularly where corroboration and visible injury are limited. This comparative pattern — spanning offence structure, evidential requirements, and victim-experience implications — is summarised in **Table 3**. **Appendix A** provides a more detailed statutory comparison of NFS law across the UK.

2.8. Legal-to-empirical hypothesis

The comparative analysis generates a plausible hypothesis: offence-specific NFS criminalisation may affect how high-risk domestic abuse is identified, recorded, charged, prosecuted, and interrupted before lethal escalation. The empirical analysis below

explores whether post-2022 IPH patterns in England and Wales are consistent with that hypothesis relative to Scotland, which did not have a standalone NFS offence during the study period. Scotland is used as the comparison jurisdiction not because it is identical to England and Wales, but because it provides the closest available within-UK contrast for an early post-commencement assessment. This exercise should be read as exploratory and descriptive rather than as a conclusive causal evaluation.

3. Data and Empirical Strategy

3.1. Data

We construct a jurisdiction–year panel for England and Wales and Scotland covering fiscal years 2013–14 to 2024–25.¹ The panel contains 24 jurisdiction-years: two jurisdictions observed over twelve fiscal years. Annual counts of intimate partner homicide (IPH), separately by victim sex, are taken from official homicide statistical tables for each jurisdiction. For England and Wales, IPH counts are extracted from the Office for National Statistics (Office for National Statistics, 2025, 2026) homicide appendix tables (Worksheet 15).²³ For Scotland, IPH counts are extracted from the Scottish Government’s homicide data tables (Scottish Government, 2025, Table 8).⁴

3.2. Outcomes

To compute IPH rates, we merge the homicide counts with sex-specific population denominators for England and Wales and Scotland from the ONS mid-year population estimates (Estimates of the population for the UK, England, Wales, Scotland, and Northern Ireland) (Office for National Statistics, 2024).⁵ We calculate sex-specific IPH rates per 100,000 population as:

$$IPHrate_{jt} = \frac{IPHcount_{jt}}{Population_{jt}} \times 100,000,$$

separately for women and men in each jurisdiction j and year t .⁶ Counts capture the absolute number of intimate partner homicides, while rates adjust for population size and provide a more comparable cross-jurisdiction measure.

¹ Fiscal year or financial year t corresponds to 1 April of year t to 31 March of year $t+1$.

²

<https://www.ons.gov.uk/file?uri=/peoplepopulationandcommunity/crimeandjustice/datasets/appendixablehomicideinenglandandwales/current/homicideinenglandandwalesappendixablesyemar2024.xlsx> (Last accessed: 2 June 2026)

³

<https://www.ons.gov.uk/file?uri=/peoplepopulationandcommunity/crimeandjustice/datasets/appendixablehomicideinenglandandwales/current/homicideinenglandandwalesappendixablesyemar2025finalv2.xlsx> (Last accessed: 2 June 2026)

⁴

<https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2025/10/homicide-scotland-2024-25/documents/homicide-in-scotland-2024-25-data-tables/homicide-in-scotland-2024-25-data-tables/govscot%3Adocument/Homicide%2Bin%2BScotland%2B2024-25%2Btables.xlsx> (Last accessed: 2 June 2026)

⁵

<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalesscotlandandnorthernireland> (Last accessed: 2 June 2026)

⁶ IPH counts for the population (16 and over) are reported by financial year, whereas population (16 and over) denominators are mid-year estimates (e.g., mid-2013). This mismatch is standard in administrative-rate construction but should be kept in mind when interpreting year-to-year changes.

3.3. Empirical specification

We estimate an exploratory difference-in-differences specification comparing changes in intimate partner homicide before and after the commencement of the standalone NFS offence in England and Wales in June 2022, using Scotland as the comparison jurisdiction. Scotland is used not because it is identical to England and Wales, but because it remained without a standalone NFS offence during the study period and provides the closest available within-UK contrast for an early post-commencement assessment.⁷

The unit of observation is the jurisdiction-year, and the outcomes are annual IPH counts and rates per 100,000 population, estimated separately for women and men. All homicide outcomes are measured by fiscal year. We define the post-reform period as 2022–23, 2023–24, and 2024–25. Because the England and Wales offence commenced on 7 June 2022, 2022–23 overlaps commencement rather than representing a full post-commencement fiscal year. The years 2023–24 and 2024–25 are the first full fiscal years after commencement.

Formally, we estimate:

$$Y_{jt} = \alpha + \beta(EW_j \times Post_t) + \gamma EW_j + \delta Post_t + u_{jt}$$

where Y_{jt} is the IPH count or rate in jurisdiction j and year t , EW_j equals one for England and Wales and zero for Scotland, and $Post_t$ equals one for fiscal years 2022-23 onward and zero otherwise. The coefficient β is the difference-in-differences estimand.

3.4. Interpretation and identification

The difference-in-differences coefficient captures the post-reform change in England and Wales relative to the contemporaneous change in Scotland. It can be interpreted causally only under strong assumptions, including parallel trends, non-anticipation, and no interference (Roth et al., 2023). Given the two-jurisdiction comparison, short post-reform window, volatility of annual homicide counts, and rarity of IPH outcomes, we interpret the estimates as exploratory descriptive evidence rather than causal effects.

The main analysis reports both IPH counts and IPH rates. Counts are substantively meaningful because they measure the absolute number of intimate partner homicides. Rates are also necessary because they adjust for population size and are therefore more appropriate for comparing England and Wales with Scotland.

⁷ Northern Ireland is excluded from the empirical analysis for reasons relating to identification and inference. It is unsuitable as a no-reform comparator because it introduced its own standalone NFS offence in 2023. In addition, its smaller population relative to Scotland exacerbates concerns about rare-event outcomes.

4. Results

4.1. Descriptive patterns

Figure 1 plots annual intimate partner homicide (IPH) rates per 100,000 population for England and Wales and Scotland, separately for female- and male-victim homicides, over fiscal years 2013–14 to 2024–25. Two features stand out. First, the female-victim IPH rate is consistently higher than the male-victim IPH rate in both jurisdictions. Second, Scotland’s series is more volatile, reflecting its smaller population size and low annual counts, whereas England and Wales exhibit smoother year-to-year variation.

In the pre-reform period, the two jurisdictions often move in the same direction year-to-year, although Scotland displays sharper fluctuations. In the post-reform period, female-victim IPH in England and Wales is lower relative to earlier years, while Scotland shows an increase around 2021–22 followed by a decline. Male-victim IPH remains low in both jurisdictions throughout the sample.

Before turning to difference-in-differences estimates, **Table 5** reports mean IPH counts by jurisdiction and period. In the post-reform period, average female-victim IPH in England and Wales falls from 74.00 to 58.67, a reduction of 21%, while Scotland declines from 6.33 to 6.00, a reduction of 5%. For men, the post-period patterns are weaker: counts fall slightly in England and Wales, from 12.78 to 12.33, and in Scotland, from 1.78 to 1.33.

Table 6 reports mean IPH rates per 100,000 population. Female-victim IPH rates decline in both jurisdictions, from 0.303 to 0.229 in England and Wales and from 0.272 to 0.251 in Scotland. Male-victim IPH rates also decline in both jurisdictions, from 0.055 to 0.051 in England and Wales and from 0.083 to 0.061 in Scotland. These descriptive patterns are consistent with a relative post-reform decline in England and Wales, particularly for female-victim counts, but they also show why rate-based and pre-trend evidence are important for interpretation.

4.2. Difference-in-differences estimates

Table 5 and **Table 6** also report the difference-in-differences estimates from the specification described above. With two jurisdictions and a post period beginning in 2022–23, the estimate is the difference between the pre-to-post change in England and Wales and the contemporaneous pre-to-post change in Scotland. The coefficient should be interpreted as exploratory evidence of association rather than as a causal effect, given the small two-jurisdiction panel, rare-event outcomes, short post-reform period, and pre-trend concerns discussed below.

For female-victim IPH counts, the difference-in-differences estimate is –15 annual homicides, with a standard error of 4.86 and a p-value of 0.006.⁸ This is the most notable empirical pattern in the paper, but it should not be read as evidence that the reform

⁸ Given the small sample and potential heteroskedasticity, we report HC3 standard errors. These standard errors should nevertheless be interpreted cautiously because inference is based on only two jurisdictions.

caused 15 fewer annual homicides. The estimate is based on two jurisdictions and three post-reform fiscal years, and the pre-trend diagnostics below show that the England and Wales–Scotland gap in female-victim IPH counts was already narrowing before reform.

For male-victim IPH counts, the difference-in-differences estimate is 0.00, with a standard error of 2.13 and a p-value of 1.000. Overall, the count estimates are consistent with a relative post-reform decline in England and Wales for female-victim IPH, but the evidence remains sensitive to the limitations of a very small two-jurisdiction panel.

When outcomes are expressed as rates per 100,000 population, the difference-in-differences estimates are -0.053 for female-victim IPH and 0.018 for male-victim IPH. The estimate for women is negative but imprecisely estimated, with a standard error of 0.049 and a p-value of 0.295 . Thus, the rate-based results do not provide statistically precise evidence of a post-reform relative decline in female-victim IPH. For male-victim IPH, the coefficient is positive but close to zero and statistically insignificant, with a standard error of 0.040 and a p-value of 0.654 .

4.3. Parallel trends diagnostics

Because the female-victim count estimate is the most substantive empirical finding, it is especially important to assess whether female-victim IPH counts were evolving similarly in England and Wales and Scotland before the reform. We therefore examine pre-reform trends in the England and Wales–Scotland outcome gap before attaching causal weight to the post-reform comparison.

A linear pre-trend regression of the England and Wales minus Scotland gap on time over 2013–14 to 2021–22 yields a negative slope for female-victim IPH counts, with a slope of -2.90 and a p-value of 0.003 . This indicates that the female-victim count gap was already narrowing before the England and Wales reform. For male-victim counts and for both rate outcomes, estimated pre-trend slopes are small and not statistically distinguishable from zero, with p-values of at least 0.37 .

These diagnostics reinforce the need for caution. The negative post-reform estimate for female-victim IPH counts is consistent with the legal hypothesis, but it is not sufficient to rule out the possibility that the observed change reflects pre-existing trends rather than the effect of offence design. The pattern is also not mirrored by a statistically precise rate estimate. The finding should therefore be interpreted as hypothesis-consistent descriptive evidence.

4.4. Supplementary exploratory checks: Serious Crime Act 2015 and Domestic Abuse (Scotland) Act 2018

As supplementary contextual checks, we estimate analogous difference-in-differences specifications for two earlier domestic abuse reforms: the coercive or controlling behaviour offence introduced in England and Wales in 2015 (SCA), and Scotland's Domestic Abuse (Scotland) Act 2018 (DASA). These reforms differ from the standalone NFS offence in legal scope, timing, and likely mechanism, so we do not treat them as direct

tests of the NFS hypothesis or as formal falsification exercises. The supplementary estimates are reported in **Appendix B** using IPH rates per 100,000 population.

For the 2015 England and Wales offence, the post period begins in 2016–17, the first full fiscal year after commencement. For DASA, the post period begins in 2019–20, when the Act came into force. The SCA estimate for female-victim IPH rates is negative (**Table B1**), whereas the DASA estimate is positive (**Table B2**), reflecting a larger decline in England and Wales than in Scotland over the DASA comparison window; however, both estimates are imprecise, and the male-victim estimates are close to zero. Across these supplementary rate-based specifications, we do not detect statistically precise evidence that either reform was associated with a relative reduction in IPH. Given the small two-jurisdiction panel, low-frequency outcomes, and limited post-reform observations, these findings should also be interpreted as exploratory.

5. Discussion and conclusion

This study's key contribution is comparative and legal: it shows that UK jurisdictions differ materially in how they define, charge, prove, record and prosecute NFS-type conduct. The empirical analysis is best understood as an exploratory extension of that legal argument. For comparative and applied criminal justice scholarship, the findings are relevant because they suggest that offence design may shape evidential pathways, charging options, and opportunities for intervention in high-risk domestic abuse cases (Edwards and Douglas, 2021; Bettinson, 2022; Garza, Goodson and Franklin, 2021; Bows and Herring, 2024). The comparative legal analysis highlights substantial variation in statutory offence construction, *mens rea*, and evidential expectations, with standalone offences designed to address the evidential challenges characteristic of strangulation cases.

These differences may be more than doctrinal. They could affect how police identify NFS conduct, how prosecutors frame charges, how cases are recorded, and whether legal intervention occurs before violence escalates. The empirical analysis explores that hypothesis using early post-reform IPH data from England and Wales and Scotland. The most notable empirical pattern is the negative post-reform estimate for female-victim IPH counts in England and Wales. However, this pattern is not mirrored by a statistically precise rate estimate, it is based on a rare annual outcome, and it arises in a setting where the pre-reform England and Wales–Scotland count gap was already narrowing. The results should therefore be interpreted as hypothesis-consistent descriptive evidence rather than as establishing a causal effect of the reform.

The findings underscore both the relevance of offence design across jurisdictions and the methodological challenges of evaluating legal reforms affecting low-frequency but high-severity outcomes. Earlier and more accurate identification of strangulation may improve evidential capture at the first point of contact with the criminal justice system (Reckdenwald et al., 2017). Future research should assess whether the observed pattern persists as additional post-reform years become available and should examine intermediate criminal justice outcomes, including NFS reporting, police identification, arrest, charging, prosecution, conviction, sentencing, and victim-protection measures. These intermediate outcomes are likely to provide a more direct test of the legal mechanism than annual homicide counts alone.

These findings are also relevant to current policy debates in Scotland, particularly questions about whether existing legal routes provide sufficient offence-specific visibility, recording, and charging clarity for NFS-type conduct. The analysis should not be read as a direct estimate of what a standalone Scottish NFS offence would do to IPH. Rather, its policy relevance lies in distinguishing general criminalisation and sentencing powers from the separate functions of offence-specific recognition and institutional risk signalling. This interpretation is consistent with emerging US evidence suggesting that standalone strangulation laws may operate through intermediate criminal justice

mechanisms, including offence classification, police identification, arrest, charging, and earlier intervention in high-risk abuse. In particular, the comparative analysis suggests that offence-specific recognition may affect legal labelling, recording, charging pathway, and institutional understanding of NFS as a high-risk form of abuse. Any reform debate should therefore distinguish sentencing powers from offence visibility and should prioritise improved recording of NFS conduct across police, prosecution, and court data.

Standalone offences in England and Wales and Northern Ireland are designed to recognise NFS as a distinct high-risk act and to reduce reliance on visible injury. Scotland's framework provides substantial general criminal law and domestic abuse tools but lacks NFS-specific offence recognition. The empirical findings are consistent with the hypothesis that offence design may matter, but they should not be read as causal evidence. Given the short post-reform window, rare-event homicide outcome, two-jurisdiction comparison, and pre-trend concerns, the results should be understood as exploratory evidence motivating further research on intermediate NFS criminal justice outcomes and broader intimate partner violence beyond homicide.

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TABLE 1: TIMING AND INTRODUCTION OF DOMESTIC ABUSE ACTS AND NON-FATAL STRANGULATION OFFENCES ACROSS UK JURISDICTIONS

Jurisdiction	Reform type	Legislative milestone	In force
England and Wales	Pattern-based domestic abuse offence	Coercive or controlling behaviour offence introduced by Serious Crime Act 2015, s. 76	29 December 2015
Scotland	Pattern-based domestic abuse offence	Domestic Abuse (Scotland) Act 2018 created course-of-conduct offence	1 April 2019
Northern Ireland	Pattern-based domestic abuse offence	Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021	21 February 2022
England and Wales	Standalone NFS offence	Domestic Abuse Act 2021, s. 70 inserting Serious Crime Act 2015, s. 75A	7 June 2022
Northern Ireland	Standalone NFS offence	Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022, s. 28	26 June 2023
Scotland	Standalone NFS offence	No standalone offence	—

TABLE 2: STANDALONE NON-FATAL STRANGULATION OFFENCES AND THEIR COMPONENTS, AND RELATED DOMESTIC ABUSE FRAMEWORKS ACROSS UK JURISDICTIONS

Jurisdiction	Relevant Statute	Key Components of Crime	Penalties
England & Wales	Serious Crime Act 2015 (s.75A): standalone NFS offence	<i>Actus reus & mens rea:</i> D intentionally strangled another person, or did an act that affected that person’s ability to breathe. No proof of injury or serious harm is required. Consent is a defence, but it does not apply where V suffered serious harm and D intended or was reckless as to whether V would suffer serious harm.	Up to 5 years imprisonment; Aggravated (racial/religious) crime increased to 7 years. (<u>Sentencing Council</u>)
Scotland	Domestic Abuse (Scotland) Act 2018 (s.1 + s.2): ‘abusive behaviour’	<i>Actus reus:</i> D engaged in a course of abusive behaviour to a partner/ex-partner and a reasonable person would consider it likely to cause physical or psychological harm. <i>Mens rea:</i> D either intended or was reckless as to causing that physical or psychological harm. ‘Abusive behaviour’ defined as ‘violent, threatening or intimidating behaviour’: s2(4).	Up to 14 years imprisonment on indictment
Northern Ireland	Justice (Sexual Offences & Trafficking Victims) Act (NI) 2022, s.28: standalone NFS offence	<i>Actus reus & mens rea:</i> D intentionally applied pressure/force to the neck of a person and intended or was reckless as to affecting that person’s ability to breathe or affect the flow of blood to their brain. Consent is a defence, but it does not apply where V suffered serious harm and D intended or was reckless as to whether V would suffer serious harm.	Up to 14 years imprisonment on indictment

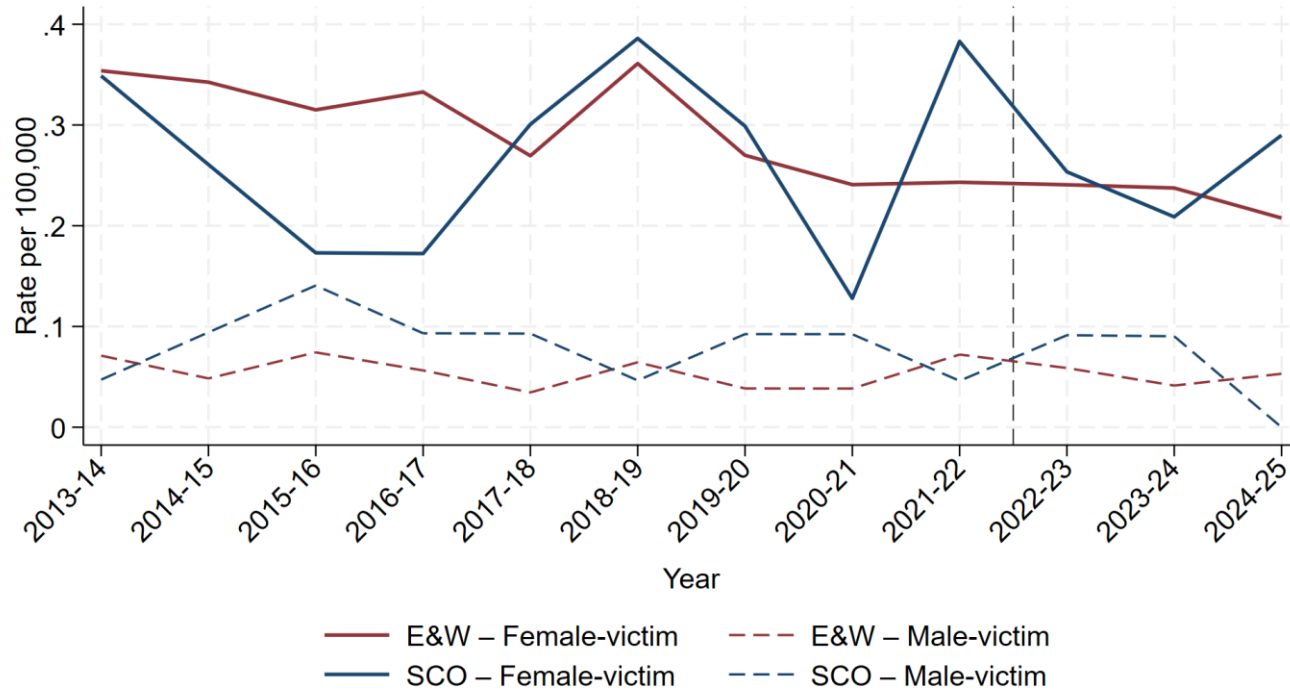
TABLE 3: COMPARATIVE OFFENCE EVIDENTIARY REQUIREMENTS, AND VICTIM-IMPACT ISSUES IN NFS-RELATED CASES

Jurisdiction	Law / Offence	Evidentiary Requirements for Conviction	Victim-Impact Issues
England & Wales	Serious Crime Act 2015 s75A: 'non-fatal strangulation'	Standard criminal burden (beyond all reasonable doubt), including victim testimony, circumstantial evidence, or medical evidence. Evidence of injury not required.	Statute allows prosecution without visible injury; lower evidential barrier for victims.
Northern Ireland	Justice (Sexual Offences & Trafficking Victims) Act NI 2022 s28: 'non-fatal strangulation'	Standard criminal burden (beyond all reasonable doubt) including victim testimony, circumstantial evidence, or medical evidence. Evidence of injury not required.	Statute allows prosecution without visible injury; <i>mens rea</i> lowered to recklessness, which is easier to prove than intention.
Scotland	Domestic Abuse (Scotland) Act 2018 s1 & 2: 'abusive behaviour'	Standard criminal burden (beyond all reasonable doubt). Evidence of injury probably required. Evidence can include witness statements, records of previous abuse, medical reports. Emphasis on 'violence'.	Single incidents of NFS with no visible injury is difficult to evidence, limiting chance of prosecution.
Scotland	Common-law serious assault	Standard criminal burden (beyond all reasonable doubt). Evidence of injury required for essential facts. Strong emphasis on a violent one-off incident.	Single incidents of NFS with no visible injury is difficult to evidence, limiting chance of prosecution.

TABLE 4: ALTERNATIVE OFFENCES USED IN NON-FATAL STRANGULATION CASES

Jurisdiction	Key comparable offences	Role in strangulation-type cases
England & Wales	Common law assault and battery (medieval); ABH (s.47 Offences Against Person Act 1861); GBH (s.18 & s.20 Offences Against Person Act 1861); Attempted murder	Provides a good ‘alternative’ offence to NFS should s.75A of the Serious Crime Act 2015 not apply for some reason. However, these offences require some kind of injury to be prosecuted (one of the reasons why the NFS offence was introduced – often no visible injury).
Scotland	Common-law assault (medieval); Serious assault (20thC); Attempted murder; DA Act offence (in table above)	Primary means of prosecuting NFS. These offences may struggle to prosecute where no injury is evidenced (as is the case for NFS).
Northern Ireland	Common assault and battery (medieval); ABH (s.47); GBH (s.18 & s.20); Attempted murder	As with England & Wales, provides a good ‘alternative’ offence to NFS should s.28 of the Justice Act 2022 not apply for some reason. As above, these offences require some kind of injury to be prosecuted (one of the reasons why the NFS offence was introduced – often no visible injury).

FIGURE 1: INTIMATE PARTNER HOMICIDE RATES PER 100,000 POPULATION, 2013–14 TO 2024–25



Note: The figure plots annual IPH rates per 100,000 population by jurisdiction and victim sex. The vertical dashed line marks 2022–23, the first post-reform fiscal year; because the England and Wales NFS offence commenced on 7 June 2022, this is a partial post-commencement year. E&W denotes England and Wales; SCO denotes Scotland.

TABLE 5: IPH BY JURISDICTION BEFORE AND AFTER THE NFS LAW

Panel A. Female-victim Intimate Partner Homicides			
Jurisdiction	Pre	Post	Change
	(2013-14 – 2021-22)	(2022-23 – 2024-25)	(Post–Pre)
Scotland	6.33	6.00	-0.33
England and Wales	74.00	58.67	-15.33
Difference-in-differences			-15.00
(standard error)			(4.86)
[p-value]			[0.006]
Panel B. Male-victim Intimate Partner Homicides			
Jurisdiction	Pre	Post	Change
	(2013-14 – 2021-22)	(2022-23 – 2024-25)	(Post–Pre)
Scotland	1.78	1.33	-0.45
England and Wales	12.78	12.33	-0.45
Difference-in-differences			-0.00
(standard error)			(2.13)
[p-value]			[1.000]

Note: Entries are average annual IPH counts by jurisdiction and victim sex. The pre-reform period is 2013–14 to 2021–22 and the post-reform period is 2022–23 to 2024–25. “Change” is Post–Pre. The difference-in-differences estimate is the England and Wales change minus the Scotland change. HC3 heteroskedasticity-robust standard errors are in parentheses and p-values in square brackets.

TABLE 6: IPH PER 100,000 POPULATION BY JURISDICTION BEFORE AND AFTER THE NFS LAW

Panel A. Female-victim IPH rate (per 100,000 population)			
Jurisdiction	Pre	Post	Change
	(2013-14 – 2021-22)	(2022-23 – 2024-25)	(Post–Pre)
Scotland	0.272	0.251	-0.021
England and Wales	0.303	0.229	-0.074
Difference-in-differences			-0.053
	(standard error)		(0.049)
	[p-value]		[0.295]
Panel B. Male-victim IPH rate (per 100,000 population)			
Jurisdiction	Pre	Post	Change
	(2013-14 – 2021-22)	(2022-23 – 2024-25)	(Post–Pre)
Scotland	0.083	0.061	-0.022
England and Wales	0.055	0.051	-0.004
Difference-in-differences			0.018
	(standard error)		(0.040)
	[p-value]		[0.654]

Note: Entries are average annual IPH rates by jurisdiction and victim sex. The pre-reform period is 2013–14 to 2021–22 and the post-reform period is 2022–23 to 2024–25. “Change” is Post–Pre. The difference-in-differences estimate is the England and Wales change minus the Scotland change. HC3 heteroskedasticity-robust standard errors are in parentheses and p-values in square brackets.

Appendix A

Non-Fatal Strangulation Crimes in England, Wales and Northern Ireland: A Comparative Legal Analysis.

Short Summary

England and Wales

In England and Wales, Parliament amended the Serious Crime Act 2015 to insert section 75A, creating an offence of strangulation and suffocation (below). The *actus reus* requires an act of 'strangling' or 'any other act' that constitutes a 'battery' (i.e., touching). The *mens rea* is 'intention'. There is no requirement for resulting harm, lowering the threshold for liability and showing support for the victim. The defence of consent is removed from the defendant if 'serious harm' resulted and D 'intended' or was 'reckless' as to that serious harm.

Serious Crime Act 2015 (UK)

Section 75A: Strangulation or suffocation.

- (1) A person ("A") commits an offence if:
 - (a) A intentionally strangles another person ("B"), or
 - (b) A does any other act to B that:
 - (i) affects B's ability to breathe, and
 - (ii) constitutes battery of B.
- (2) It is a defence to an offence under this section for A to show that B consented to the strangulation or other act.
- (3) But subsection (2) does not apply if:
 - (a) B suffers serious harm as a result of the strangulation or other act, and
 - (b) A either:
 - (i) intended to cause B serious harm, or
 - (ii) was reckless as to whether B would suffer serious harm.

Northern Ireland

Northern Ireland (NI) has adopted a similar statutory framework. Section 28 of the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 created an offence of non-fatal strangulation and asphyxiation. The *actus reus* requires an application of 'pressure' to the 'throat or neck'. The *mens rea* is 'intention' or 'recklessness' as to the 'ability to breathe' or 'blood flow to the brain'. This is a broader *mens rea*, reflecting NI's intent to cover a wide range of dangerous domestic conduct. There is, similar to England and Wales, no requirement for resulting harm, lowering the threshold for liability and showing support for the victim.

Justice (Sexual Offences and Trafficking Victims) Act (NI) 2022

Section 28: Offence of non-fatal strangulation or asphyxiation.

(1) A person (A) commits an offence if the first **and** the second conditions are met.

(2) The first condition is that A intentionally:

(a) applies pressure on or to the throat or neck of another person (B),

(3) The second condition is that A:

(a) intends A's act to affect B's ability to breathe or the flow of blood to B's brain, or

(b) is reckless as to whether A's act would affect B's ability to breathe or the flow of blood to B's brain.

(4) An offence under this section is committed irrespective of whether in fact A's act affects B's ability to breathe or the flow of blood to B's brain.

Comparison

We note that the definition of the offence in the 2015 Act (England and Wales) refers only to an 'intentional strangulation affecting the victim's ability to breathe' under s.75A(1). This may be problematic due to its limited scope. Strangulation is particularly dangerous because it impedes blood flow to the brain, primarily through compression of the carotid arteries. The interruption of cerebral blood circulation - not solely oxygen deprivation - is what makes strangulation especially harmful and a significant cause of severe brain injury. By way of comparison, the Northern Ireland 2022 Act specifically refers to 'the flow of blood to the brain' under s.28(3) as part of the *mens rea* of the crime, i.e., the defendant must intend or be reckless as to affecting blood flow to the brain but does not have to cause it. Similarly, in most U.S. state legislation and statutes, definitions of strangulation explicitly include both impediment of breathing and impairment of blood circulation, whether as part of the *actus reus* (meaning it must take place as a fact) or as part of the *mens rea* (meaning the defendant must intend or be reckless as to it). Therefore, the wording of s.75A in the 2015 Act (England and Wales) may understate the seriousness of a non-fatal strangulation event by focusing only on the 'ability to breathe', without reflecting the critical role of restricted blood circulation in causing brain damage anywhere else in the definition of the offence.

Scotland: DASA and common law routes

Scotland lacks a specific statutory offence of non-fatal strangulation. The Domestic Abuse (Scotland) Act 2018 creates a statutory offence of 'abusive behaviour towards a partner or ex-partner'. The *actus reus* is a 'course of behaviour which is abusive' and 'a reasonable person would consider the behaviour likely to cause physical or psychological harm'. The *mens rea* is 'intention' or 'recklessness'. This offence is very broad and would recognise coercive control over a longer period of time, but may struggle to recognise a one-off incident of NFS.

Domestic Abuse (Scotland) Act 2018

Section 1: Abusive behaviour towards partner or ex-partner

(1) A person commits an offence if:

- (a) the person (“A”) engages in a course of behaviour which is abusive of A’s partner or ex-partner (“B”), and
- (b) both of the further conditions are met.

(2) The further conditions are:

- (a) that a reasonable person would consider the course of behaviour to be likely to cause B to suffer physical or psychological harm,
- (b) that either:
 - (i) A intends by the course of behaviour to cause B to suffer physical or psychological harm, or
 - (ii) A is reckless as to whether the course of behaviour causes B to suffer physical or psychological harm.

(3) In the further conditions, the references to psychological harm include fear, alarm and distress.

Section 2: What constitutes abusive behaviour

(1) Subsections (2) to (4) elaborate on section 1(1) as to A’s behaviour.

(2) Behaviour which is abusive of B includes (in particular):

- (a) behaviour directed at B that is violent, threatening or intimidating,

(4) In subsection (2):

- (a) in paragraph (a), the reference to violent behaviour includes sexual violence as well as physical violence.

DASA’s course-of-behaviour structure may be a strength where NFS forms part of a broader pattern of coercive control. The point is not that DASA fails to capture domestic abuse. Rather, the limitation for present purposes is that DASA does not provide offence-specific recognition of NFS as a discrete high-risk act. Where strangulation forms part of an ongoing course of abusive behaviour, DASA may provide an appropriate route. Where strangulation is recorded as a discrete incident, however, prosecution may depend more heavily on common law assault, attempted murder, or other general offences.

Beyond the 2018 Act, Scotland relies on common law assault, with more aggravated cases capable of being characterised as “serious assault.” Serious assault is not a distinct statutory offence but a serious form of common law assault, ordinarily associated with aggravating features such as weapon use, risk to life, severe injury, extreme violence, or other circumstances demonstrating seriousness. The actus reus of assault requires a physical attack or menacing conduct that puts the victim in fear, and the mens rea requires either “evil intent” — a deliberate and intentional attack — or wicked recklessness. “Wicked recklessness” is recklessness so extreme as to demonstrate a wicked disregard for consequences: see *Smart v HM Advocate* 1975 JC 30 and *Transco plc v HM Advocate* 2004 JC 29. Because NFS may involve no weapon and may leave limited or no visible injury, discrete strangulation incidents may be harder to characterise as serious assault under general assault frameworks unless the prosecution can establish life-endangering conduct, corroborating evidence, or other aggravating circumstances. The sentencing powers for common law assault are substantial, including judicial discretion up to life imprisonment in the most serious cases, but those powers do not themselves provide NFS-specific labelling, recording, or charging visibility. The potential gap is therefore not one of general criminalisation or sentencing power, but of offence-specific recognition: Scots law may

criminalise the underlying conduct, yet it does not separately identify NFS as a discrete high-risk form of abuse for purposes of labelling, recording, charging, and institutional risk assessment.

Prior changes to the law in England and Wales (2012 – 2015)

In 2012, the Domestic Violence, Crime and Victims (Amendment) Act 2012 was passed to change (amend) the earlier Domestic Violence, Crime and Victims Act 2004. There was an expanded offence of ‘causing or allowing a child or vulnerable adult to suffer serious physical harm’ which no longer required the victim to die for criminal charges to be brought. This allowed for serious non-fatal injuries on a vulnerable person in a domestic setting to attract harsher penalties than regular assault, battery, ABH (actual bodily harm) or GBH (grievous bodily harm) charges. In 2012 the Protection from Harassment Act 1997 was updated by provisions made in the Protection of Freedoms Act 2012, creating 2 new offences for stalking. In 2013, the government’s definition (not a legislative change) of domestic violence and abuse was widened to include young people aged 16-17 (as victims), in addition to adding coercive and controlling behaviour, to recognise non-physical harms ([link](#)). In 2013, the Domestic Violence Disclosure Scheme (DVDS), commonly called ‘Clare’s Law’, was introduced in England and Wales from March 2014, enabling the police to disclose a person’s previous domestic violence record to a current or prospective partner. In 2015, controlling or coercive behaviour in an intimate or family relationship became a specific criminal offence under Section 76 of the Serious Crime Act 2015. The Domestic Abuse Act 2021 was then passed with a clear statutory definition of domestic abuse under section 1, also making it mandatory for police to follow the DVDS Scheme guidelines (Clare’s Law, above).

Appendix B

Supplementary exploratory checks: Serious Crime Act 2015 and Domestic Abuse (Scotland) Act 2018

TABLE B1: IPH PER 100,000 POPULATION BY JURISDICTION BEFORE AND AFTER THE SCA

Panel A. Female-victim IPH rate (per 100,000 population)			
Jurisdiction	Pre	Post	Change
	(2013-14 – 2015-16)	(2016-17 – 2018-19)	(Post–Pre)
Scotland	0.261	0.286	0.025
England and Wales	0.337	0.321	-0.016
Difference-in-differences			-0.042
	(standard error)		(0.105)
	[p-value]		[0.702]
Panel B. Male-victim IPH rate (per 100,000 population)			
Jurisdiction	Pre	Post	Change
	(2013-14 – 2015-16)	(2016-17 – 2018-19)	(Post–Pre)
Scotland	0.094	0.078	-0.016
England and Wales	0.065	0.052	-0.013
Difference-in-differences			0.003
	(standard error)		(0.041)
	[p-value]		[0.931]

Note: Entries are average annual IPH rates by jurisdiction and victim sex. The pre-reform period is 2013–14 to 2015–16 and the post-reform period is 2016–17 to 2018–19. “Change” is Post–Pre. The difference-in-differences estimate is the England and Wales change minus the Scotland change. HC3 heteroskedasticity-robust standard errors are in parentheses and p-values in square brackets.

TABLE B2: IPH PER 100,000 POPULATION BY JURISDICTION BEFORE AND AFTER DASA

Panel A. Female-victim IPH rate (per 100,000 population)			
Jurisdiction	Pre	Post	Change
	(2016-17 – 2018-19)	(2020-21 – 2021-22)	(Post–Pre)
England and Wales	0.321	0.251	-0.070
Scotland	0.286	0.270	-0.016
Difference-in-differences			0.053
	(standard error)		(0.124)
	[p-value]		[0.679]
Panel B. Male-victim IPH rate (per 100,000 population)			
Jurisdiction	Pre	Post	Change
	(2016-17 – 2018-19)	(2020-21 – 2021-22)	(Post–Pre)
England and Wales	0.052	0.050	-0.002
Scotland	0.078	0.077	-0.001
Difference-in-differences			0.002
	(standard error)		(0.032)
	[p-value]		[0.963]

Note: Entries are average annual IPH rates by jurisdiction and victim sex. The pre-reform period is 2016–17 to 2018–19 and the post-reform period is 2020–21 to 2021–22. “Change” is Post–Pre. The difference-in-differences estimate is the Scotland change minus the England and Wales change. HC3 heteroskedasticity-robust standard errors are in parentheses and p-values in square brackets.