

6 June 2025

Thank you for the opportunity to provide feedback in relation to the review of non-fatal strangulation.

WLSQ

Women's Legal Service Queensland ('WLSQ') provides Queensland-wide, specialist, free legal information, advice and representation to women in matters involving domestic violence, family law, child protection, financial abuse prevention and some sexual violence matters including sexual assault counselling privilege.

Proposal 1

We support the proposed three offence structure, including the respective maximum sentences suggested to reflect the serious nature of these offences. While we acknowledge the potential for diverse perspectives within the broader domestic and sexual violence sector, it is our position that consent should neither be an element of the offence nor available as a defence. The law recognises that certain forms of conduct are so inherently harmful that, as a matter of public policy, consent cannot be given—grievous bodily harm being one such example. We consider non-fatal strangulation to fall within this category. The well-documented link between non-fatal strangulation and increased risk of future lethality in domestic and family violence settings, along with the use of coercive control behaviours, further reinforce our position that consent cannot be given for these offences.

With respect to consent as a defence, we note that the existing defence of mistake of fact already poses a substantial barrier to justice in sexual violence cases. Our concern is that introducing consent into the legal framework of these offences would introduce similar challenges, compounding trauma and contributing to delays for victim-survivors.

Proposal 2

WLSQ agrees that the existing defences in the Criminal Code of provocation to assault (s 269), prevention of repetition of insult (s 270), and domestic discipline (s 280) should not apply to the three new offences. We note that there may be complexity associated with s269 depending on the nature of the conduct criminalised by the new offence. Our submission that the defences ought not to apply largely rests on our position that non-fatal strangulation is analogous to grievous bodily harm.

Proposal 3

WLSQ agrees with the proposal for pleas of guilty to be dealt with in the Magistrates Court subject to the prosecutor's election and Magistrate's overriding discretion. This approach may potentially increase the number of matters which proceed to sentence and reduce delays for victim-survivors. While it necessarily limits the maximum penalty which can be imposed, the work of the QSAC has demonstrated that the penalties for serious offences generally sit well below the maximum penalty in any event (for example, the average imprisonment length for sexual assault which has a maximum penalty of 10 years was 1.3 years and the average sentence for Rape, a life offence, was 6.6 years)¹. Given this context, it is our position that this proposal will generally result in better outcomes for victim-survivors, provided that it is on the prosecutor's election.

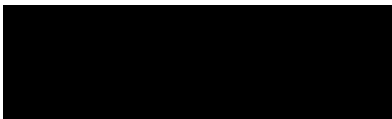
¹ Queensland Sentencing Advisory Council Sentencing of Sexual Assault and Rape - The Ripple Effect: Final Report

Conclusion

We acknowledge that this is a complex and contested area of law, and that individuals and advocates within the sex work industry may hold differing views. Our position is grounded in the context of domestic and family violence, where our priority is to ensure the law reflects the seriousness of non-fatal strangulation and provides both strong protections for women and a robust criminal justice response to those who choose to use violence in intimate relationships.

Thank you again for the opportunity to contribute.

Yours sincerely,



Nadia Bromley

Chief Executive Officer

Women's Legal Service Queensland