



Domestic Abuse Act 2021

2021 CHAPTER 17

PART 6

OFFENCES INVOLVING ABUSIVE OR VIOLENT BEHAVIOUR

Offences against the person

70 Strangulation or suffocation

- (1) In Part 5 of the Serious Crime Act 2015 (protection of children and others), after section 75 insert—

“Strangulation or suffocation

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.
- (4) A is to be taken to have shown the fact mentioned in subsection (2) if—

Status: This is the original version (as it was originally enacted).

- (a) sufficient evidence of the fact is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (5) 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.
- (6) In this section “serious harm” means—
- (a) grievous bodily harm, within the meaning of section 18 of the Offences Against the Person Act 1861,
 - (b) wounding, within the meaning of that section, or
 - (c) actual bodily harm, within the meaning of section 47 of that Act.

75B Offences under section 75A committed outside the United Kingdom

- (1) If—
- (a) a person does an act in a country outside the United Kingdom,
 - (b) the act, if done in England and Wales, would constitute an offence under section 75A, and
 - (c) the person is a United Kingdom national or is habitually resident in England and Wales,
- the person is guilty in England and Wales of that offence.
- (2) In this section—
- “country” includes territory;
 - “United Kingdom national” means an individual who is—
 - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (b) a person who under the British Nationality Act 1981 is a British subject, or
 - (c) a British protected person within the meaning of that Act.”

(2) Schedule 2 contains consequential amendments.

71 Consent to serious harm for sexual gratification not a defence

- (1) This section applies for the purposes of determining whether a person (“D”) who inflicts serious harm on another person (“V”) is guilty of a relevant offence.
- (2) It is not a defence that V consented to the infliction of the serious harm for the purposes of obtaining sexual gratification (but see subsection (4)).
- (3) In this section—

Status: This is the original version (as it was originally enacted).

“relevant offence” means an offence under section 18, 20 or 47 of the Offences Against the Person Act 1861 (“the 1861 Act”);

“serious harm” means—

- (a) grievous bodily harm, within the meaning of section 18 of the 1861 Act,
- (b) wounding, within the meaning of that section, or
- (c) actual bodily harm, within the meaning of section 47 of the 1861 Act.

- (4) Subsection (2) does not apply in the case of an offence under section 20 or 47 of the 1861 Act where—
 - (a) the serious harm consists of, or is a result of, the infection of V with a sexually transmitted infection in the course of sexual activity, and
 - (b) V consented to the sexual activity in the knowledge or belief that D had the sexually transmitted infection.
- (5) For the purposes of this section it does not matter whether the harm was inflicted for the purposes of obtaining sexual gratification for D, V or some other person.
- (6) Nothing in this section affects any enactment or rule of law relating to other circumstances in which a person’s consent to the infliction of serious harm may, or may not, be a defence to a relevant offence.