



Ministry
of Justice

Laura Farris MP
Minister for Victims and
Safeguarding

Sir Bob Neill MP

Chair, Justice Select Committee
House of Commons
London
SW1A 0AA

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Dear Sir Bob,

STATUTORY AGGRAVATING FACTOR FOR MANSLAUGHTER INVOLVING SEXUAL CONDUCT

I am pleased to inform you that on 14th February, the Government will be announcing its intention to introduce a new statutory aggravating factor for cases of manslaughter involving sexual conduct. This is intended to recognise in sentencing the seriousness of killings which occur in the context of so-called 'rough sex', characterised by abusive, degrading and dangerous sexual conduct.

In recent years, there has been growing concern about high profile killings of women in the context of consensual, or allegedly consensual, sadomasochistic acts or violence during sex. The law is clear that there is no such defence as the 'rough sex defence'. The Domestic Abuse Act 2021 clarified this by restating, in statute, that a person is legally unable to consent to actual bodily harm or more serious injury, and by extension, their own death. Concerns remain however regarding the length of sentences in some cases of manslaughter where death occurs in the context of so-called 'rough sex'. This new statutory aggravating factor is intended to address these concerns.

This measure also responds to one of the recommendations made by Clare Wade KC in the Domestic Homicide Sentencing Review. In the review, Clare Wade KC found that the narrative of 'rough sex gone wrong' needs to be reconsidered in the light of coercive control. Violence during sex, whether said to be consensual or not, should not be seen as distinct from the gendered violence and control which occurs elsewhere between intimate partners.

The recommendation made by Clare Wade KC on this issue relates to the manslaughter sentencing guideline, which falls under the remit of the independent Sentencing Council. This recommendation was that death which occurs in the course of violence which is alleged to be consensual during a sexual encounter should be categorised as high culpability in the manslaughter sentencing guideline. The previous Lord Chancellor, the Rt Hon Dominic Raab MP, wrote to the Council to propose that it revise the guideline in light of Clare Wade KC's recommendation, whilst also committing to keeping legislative options under review to ensure that reform on this issue is delivered. The Council considered this issue and determined that such a change to the guideline was not necessary. The Council is of the view that most of these cases would already be assessed as high culpability, particularly in cases where strangulation or a weapon are involved.

The Government is grateful to the Council for its careful assessment of these issues. There are however rare cases that we are aware of where the courts have not assessed the culpability as high, and it is in regard to these rare cases that public concern about low sentences has been most prominent. The Government is therefore committed to delivering reform.

The new statutory aggravating factor will apply to all cases of manslaughter which involve sexual conduct. This is intended to include cases where the act that led to death is directly attributable to sexual conduct, such as strangulation during a sexual encounter. It is also intended to include cases where the death occurs in the context of the victim's vulnerability or injury as a result of sexual conduct. For example, cases where death results from a failure to seek medical attention following injuries sustained during sexual conduct.

We must ensure that the seriousness of abusive, degrading and dangerous sexual behaviour is recognised in the sentencing of these cases. This measure will be introduced when parliamentary time allows.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Laura Farris', written in a cursive style.

LAURA FARRIS MP