

Sentencing strangulation and Suffocation



The offences of strangulation and suffocation were created by **section 70(1) of the Domestic Abuse Act 2021** and came into force on 7 June 2022.

There are no sentencing guidelines for the offences. The maximum sentence is 5 years' custody.

The leading case when considering sentence is **Cook [2023] EWCA Crim 452**.

In **Cook**, William Davis LJ set out sentencing principles to be followed. The principles are:

1. A custodial sentence will be appropriate, save in exceptional circumstances;
2. Ordinarily that sentence will be one of immediate custody;
3. The starting point will be 18 months' custody;
4. The starting point may be increased by:
 - (i) history of previous violence, especially for strangulation;
 - (ii) the presence of a child or children;
 - (iii) the attack being carried out in the victim's home;
 - (iv) sustained or repeated strangulation;
 - (v) use of a ligature or ligature equivalent;
 - (vi) abuse of power;
 - (vii) offender under the influence of drink or drugs;
 - (viii) offence on licence;
 - (ix) vulnerable victim;
 - (x) steps taken to prevent the victim reporting an incident;
 - (xi) steps taken to prevent the victim obtaining assistance;
 - (xii) the statutory aggravating factors referred to in the Sentencing Council's General Guideline: Overarching Principles;
5. The Domestic Abuse overarching guideline applies which emphasises the seriousness of offending in a domestic context.

The slightly later case of **Borsodi [2023] EWCA Crim 899** clarified that the custodial sentence may be immediate or, in appropriate cases, may be suspended.

When the court in **Cook** said “Ordinarily the sentence will be one of immediate custody” it did not mean that there must be exceptional circumstances for the court to suspend a sentence. The Sentencing Guideline for the Imposition of Community and Custodial Penalties should be applied.

The future

There is likely to be a Sentencing Guideline for strangulation and suffocation in the near future. The Sentencing Council produced a draft guideline for consultation between May and August 2024.

The guideline envisages the most serious offences to be those where there is sustained or repeated strangulation or suffocation, or use of a ligature, with the offence resulting in a severe physical injury or psychological condition which has a substantial and long term effect on the victim’s ability to carry out their normal day to day activities. These offences would have a starting point of 3 years 6 months’ custody and a range of 2 years’ to 4 years’ 6 months. The least serious offences would have a starting point of 1 year’s custody.