

## **Terms of Reference**

### **Creation of a separate crime of non-fatal strangulation**

#### **Context**

An element of the revised Law Commission work programme 2014/15 issued by the Minister of Justice included creation of a separate crime of non-fatal strangulation.

In its fourth Annual Report the Family Violence Death Review Committee noted that non-fatal strangulation “is an important lethality risk indicator and the Committee believes it must be considered a “red flag” for future serious abuse and fatality”. The Committee accordingly recommended that “the government consider an amendment to the Crimes Act to include non-fatal strangulation as a separate crime under Part 8 of the Crimes Act 1961”.

#### **Reference**

The Law Commission will consider:

- a) The rationale for establishing a crime of non-fatal strangulation, with reference to the recommendations of the Family Violence Death Review Committee and the experience of overseas jurisdictions;
- b) If a crime of non-fatal strangulation is to be created, the appropriate elements of the offence and its maximum penalty, with reference to other offences against the person in the Crimes Act 1961; and
- c) Whether a crime of non-fatal strangulation should be created or whether there are other (legislative or operational) options that would better address the concerns the proposed crime is intended to address.

#### **Scope**

This reference forms part of a range of family violence initiatives that the Minister of Justice is initiating. During the review this reference will consult with the other family violence initiatives and where possible provide integrated recommendations.

This reference is to focus on the creation of the new crime in the family violence context and is not to consider the general law of assault or strangulation, unless necessary to do so.

#### **Review Process**

The reference will be undertaken by:

- i. The Law Commission issuing for targeted consultation a Draft Final Report after undertaking preliminary research which will include assessing overseas experience and best practise;
- ii. Consulting with targeted agencies within New Zealand including Police, Judiciary, Ministry of Justice, Family Violence Death Review Committee, New Zealand Law Society and other knowledgeable agencies.

- iii. Engaging with an expert panel, made up of both public and non-public sector advisers, during the reference.

**Timing**

The Commission will report to the Minister on the 31<sup>st</sup> of March 2016.