

The defendant, Daniel Gourlay, and the complainant, [name redacted], were in a relationship for approximately eight months as of December 2024. The complainant has two children, [name redacted] (11) and [name redacted] (6), from a previous relationship. They lived with her. The defendant occasionally stayed at her residence but did not live with her due to his aggressive behaviour when intoxicated.

On 16 December 2024, the defendant arrived at the complainant's house, intoxicated. The complainant asked him to sober up and not enter the house, but he forced his way in. Inside, the defendant became aggressive, grabbing the complainant by the throat and strangling her, causing her to struggle to breathe, lose control of her bladder, and feel extreme fear. The complainant managed to escape but was pinned to the floor by the defendant, who sat on her abdomen, restrained her hands, and repeatedly threatened to kill her. Her son, [name redacted], witnessed the assault and saw the defendant holding his mother down. The complainant eventually got up, but the defendant punched her in the face, causing her to fall and hit her head against the wall, leaving a hole in the plasterboard. The complainant instructed her son to call the police, which he did, while the defendant yelled at him. Both children witnessed the incident and pleaded with the defendant to stop hurting their mother. Neighbours heard the commotion, including a woman screaming and a child calling for help.

After the incident, the complainant and her children sought refuge at a neighbour's house. The complainant was visibly injured, with a bleeding eyebrow, and was distressed. The defendant left the scene in his car. Police arrived shortly after and observed the complainant's injuries, including red marks on her neck, a bleeding eyebrow, and damage to the house. The children were also distressed, with [name redacted] expressing fear for her mother's life. The complainant later attended the hospital, where she was treated for multiple injuries, including a laceration to her eyebrow, bruising, and tenderness in various areas.

The defendant was arrested on 17 December 2024 and participated in a video-recorded interview. He admitted to being intoxicated, consuming approximately eight beers, and having an argument with the complainant. He claimed to have limited memory of the events but denied threatening to kill the complainant, a claim not accepted by the State. He expressed remorse upon seeing photos of the complainant's injuries. The defendant provided no comment on the allegations of strangulation and assault. He was detained for court and remanded in custody until 13 February 2025, after which he was bailed. That involves a period in custody which I have taken into account in arriving at sentence.

The defendant has pleaded guilty to one count of strangulation and two counts of assault arising from these events.

I have had the benefit of a pre-sentence report with specific reference to the defendant's suitability for home detention and community service. The report informs me as follows.

The defendant was born on 4 March 1991 and is the only child from his parents' union but he has five half-siblings. He described his childhood as "great" but also reported instances of extreme discipline and physical abuse by his father. His mother is wheelchair-bound due to severe health issues, and his father passed away seven years ago. His sister, Ms Young, confirmed their close relationship and reliance on the defendant for property maintenance and

emotional support. She noted positive changes in his behaviour, particularly after Alcohol and Drug counselling.

The defendant has been in a new relationship with a Ms Short for seven months. She has a five-year-old son. Both described their relationship as supportive and loving.

The defendant resides at [address redacted] with his mother and sister. This location has been deemed suitable for home detention. He assists in caring for his mother and maintaining their seven-acre property. Outside of work, the defendant spends his time cleaning, cooking, watching television, and engaging in family-oriented activities. He completed Year 12 and holds various vocational certificates, including construction-related qualifications and safety tickets. He is employed full-time with [name redacted]. His employer praised his work ethic. The defendant attributed his offending to alcohol intoxication, emotional stress, and relationship issues. The Family Violence Management Systems database reveals prior incidents of family violence involving the complainant and a previous partner. He has been subject to a Family Violence Electronic Monitoring Device since February 2025. He has not been subjected to a term of imprisonment.

I have received a victim impact statement from the complainant. Apart from the immediate physical injury, the complainant has found that she used to do things by herself prior to the incident and was confident and autonomous, but she has now lost that completely. She becomes defensive and agitated easily which makes life difficult for her and takes a lot of emotional and physical energy from her. She knows that she was not the person that she once was. Her children have also been greatly affected by what has happened.

The defendant's prior convictions that I have referred to, include common assault and breach of the family violence order. I take into account the statutory aggravating circumstances specified by s 13 of the *Family Violence Act* 2004, in particular in this case that the offending was committed in front of the complainant's children. Pursuant to s 13A of the *Family Violence Act* 2004 I refer the offences as family violence offences.

The seriousness of the defendant's offending cannot be overstated. In particular, as I have said for some years now, strangulation can result in death in a surprisingly short amount of time. Generally deterrence and denunciation and vindication of the victim are at the fore as sentencing considerations.

The defendant is convicted of each of the offences to which he has pleaded guilty and on the conviction for strangulation, I impose a sentence of 18 months' home detention. The home detention order will be as follows:

- 1     You must attend the Community Corrections office at 3 Terry Street, Glenorchy for induction onto this order. You must attend this service during normal business and no later than 9:00am on Tuesday, 9 June 2026.
- 2     You must not commit an offence that is punishable by imprisonment.
- 3     You must, during the operational period of the order, remain at [address redacted] (home detention premises), unless approved by a probation officer.
- 4     You must permit a police officer, probation officer or prescribed officer to enter the home detention premises.
- 5     You must permit a police officer to:
  - (a)     Conduct a search of the home detention premises; and

- (b) Conduct a frisk search, within the meaning of the *Search Warrants Act* 1997, of you, at the home detention premises or at any other place or premises; and
  - (c) Take a sample of a substance found on the home detention premises or on you.
- 6 You must comply with any reasonable and lawful directions of a probation officer or prescribed officer, including any directions of you as to the kind of employment, or the place of employment.
- 7 You must, during all of the operational period of the order submit to electronic monitoring, including by wearing or carrying an electronic device.
- 8 During the period that you are required to submit to electronic monitoring:
  - (a) You must not remove, tamper with, damage or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring;
  - (b) You must not allow anyone else to remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring; and
  - (c) You must comply with all reasonable and lawful directions given to you in relation to the electronic monitoring, including in relation to the installation, attachment or operation of a device, or a system, used for the purposes of electronic monitoring by:
    - (i) a police officer;
    - (ii) a probation officer or prescribed officer; or
    - (iii) another person whose functions involve the installation or operation of a device, or a system, used for the purposes of electronic monitoring.
- 9 You must, during the operational period of the order, maintain in operating condition an active mobile phone service, provide the contact details to Community Corrections and be accessible for contact through this device at all times
- 10 You must submit to the supervision of a Community Corrections officer as required by that officer. In particular, if directed by a probation officer, you must attend, participate in and complete the Family Violence Defendant Intervention Program as directed and if directed by a probation officer, you must attend, participate in and complete the EQUIPS Domestic Abuse Program as directed.
- 11 You must not, during the operational period of the order, take any illicit or prohibited substances. Illicit and prohibited substances include:
  - (a) Any controlled drug as defined by the *Misuse of Drugs Act* 2001;
  - (b) Any medication containing an Opiate, Benzodiazepine, Bupropion, Hydrochloride or Pseudoephedrine, unless you provide written evidence from your medical professional that you have been prescribed the relevant medication.
- 12 You must not, during the operational period of the order, consume alcohol, and you must, if directed to do so by a police officer or Community Corrections officer, submit to a breath test, urine test, or other test, for the presence of alcohol.

With respect to the two convictions for assault, I impose a single sentence of a Community Corrections Order with an operative period of 18 months. It is a condition of that order that the defendant undertake and complete 175 hours of community service.