

1. COMMON ASSAULT (Simpliciter)

2. AGGRAVATED COMMON ASSAULT ON A MALE CHILD OR A FEMALE (Simpliciter)

Offences Against the Person Act 1861

42. - Any person who unlawfully assaults or beats any other person shall be guilty of an offence under this section ...

43. - When any person shall be charged ... with an assault or battery upon any male child whose age shall not ... exceed fourteen years, or upon any female, either upon the complaint of the party aggrieved or otherwise, the said justices, if the assault or battery is of such an aggravated nature that it cannot in their opinion be sufficiently punished under the provisions herein-before contained as to common assaults and batteries, may proceed to hear and determine the same in a summary way, and, if the same be proved, may convict the person accused ... (Repealed 4 July 2011)

Maximum Sentence:

Offences Against the Person Act 1861, s.42 (Common Assault)

*Summary only: 3 months imprisonment or Level 3 fine (£1,000) or both (for offences committed before 4 July 2011)
6 months imprisonment or Level 3 fine (£1,000) or both (for offences committed on or after 4 July 2011)*

Offences Against the Person Act 1861, s.43 (Aggravated Assault)

Summary only: 6 months imprisonment or Level 4 fine (£2,500) or both (for offences committed before 4 July 2011)

Assessment of Offence

(Starting points and ranges based on 1st time offender convicted following contest)

<u>Nature of Offence</u>	<u>Starting Point</u>	<u>Sentencing Range</u>
Assault where no injury is caused or where injury is minor and non-permanent (e.g. bruising)	Community Order* + Compensation Order	Fine to Community Order** + Compensation Order
Assault resulting in more serious injury but not amounting to actual bodily harm	2 months Custody* + Compensation Order	Community Order to 6 months Custody + Compensation Order
Assault involving gratuitous violence (e.g. kicking or stamping victim when on the ground) OR Assault was motiveless	4 month Custody* + Compensation Order	Community Order to 6 month Custody + Compensation Order

* Where a court finds the offence was 'committed in the context of domestic violence' or where 'the victim was engaged in providing a service to the public' it shall use a starting point higher than that prescribed.

** Where a court finds the offence was 'committed in the context of domestic violence' or where 'the victim was engaged in providing a service to the public' it may impose a sentence outside the prescribed sentencing range.

<u>Examples of Possible Aggravating Factors of Offence</u>	<u>Examples of Possible Mitigating Factor of Offence</u>
<ol style="list-style-type: none"> 1. Use of weapon to frighten or harm victim 2. Head-butting, biting, attempted strangulation or spitting 3. Offence was premeditated 4. Offence motivated by, or demonstrating, hostility to victim on account of his membership of a racial group, religious group, sexual orientation group, disability or presumed disability.*** 5. Abuse of position of trust 6. Offender was member of a group committing the offence 7. Victim is particularly vulnerable 8. Additional degradation of the victim 9. Offence committed in the presence of a child 10. Offence committed in victim's home or workplace 11. Offender prevented victim from seeking or obtaining help 12. Victim forced to leave home 13. Offence took place in an isolated area 14. Assault committed in the context of 'road rage' 	<ol style="list-style-type: none"> 1. Provocation

Relevant Cases:

NI Cases:

1. [R v Savage \[2008\] NICC 30](#)
2. [R v McCullough \(19 December 1997\)\(Unreported\)](#)

English Cases:

1. R v Fenton (1994) 15 Cr App R(S) 682

Notes:

1. *** Where a court finds the offence was aggravated by 'hostility' it shall state in open court that the offence was so aggravated (Criminal Justice (No.2)(NI) Order 2004, Article 2)
2. 'Reasonable punishment' of the child is not a defence to an offence of 'aggravated common assault' (Law Reform (Miscellaneous Provisions) (NI) Order 2006, Article 2).

