

POSSESSION OF AN OFFENSIVE WEAPON

Public Order (NI) Order 1987

22. – (1) A person who, without lawful authority or reasonable excuse (proof of which lies on him), has with him in any public place any offensive weapon shall be guilty of an offence.

Maximum Sentence:

Public Order (NI) Order 1987

Summarily: 12 months imprisonment and/or the statutory maximum fine (£5,000) (for offences committed on or after 16 July 2008)

6 months imprisonment and/or the statutory maximum fine (£5,000) (for offences committed before 16 July 2008)

Indictment: 4 years imprisonment

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>
Offender possessing concealed weapon	Community Order	Community Order to 3 months Custody
Offender possessing weapon in public view	3 months Custody	Community Order to 9 months Custody

Examples of Possible Aggravating Factors of Offence

1. Nature of weapon
2. Specifically planned use of weapon to commit violence, threaten violence, or intimidate
3. Offence motivated by, or demonstrating, hostility to persons on account of their membership of a racial group, religious group, sexual orientation group, disability or presumed disability.*
4. Offender operating in a group or gang
5. Offence committed at school, hospital, or other place where vulnerable persons may be present
6. Offence committed on premises where people carrying out public services
7. Offence committed on public transport

Examples of Possible Mitigating Factor of Offence

N/A

Relevant Cases:

NI Cases:

N/A

English Cases:

R v Stark [1998] EWCA Crim 1106
 R v Johnson [1996] EWCA Crim 970
 R v Casey [1996] EWCA Crim 461
 R v Webster [1985] 7 Cr.App.R. (S) 359
 R v Simpson [1992] 13 Cr.App.R (S) 665
 R v Bristow [1997] EWCA Crim 2662
[R v Edwards \[2006\] EWCA Crim 3362](#)

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. "Offensive weapon" means any article made or adapted for use for causing injury to the person, or intended by the person having it with him for such use by him or by some other person – Article 22(2) of the Public Order (NI) Order 1987