

SEXUAL ASSAULT ON CHILD UNDER 13

Sexual Offences (NI) Order 2008

14. – (1) A person commits an offence if—
- (a) he intentionally touches another person,
 - (b) the touching is sexual, and
 - (c) the other person is under 13.

Maximum Sentence:

Sexual Offences (NI) Order 2008, Art.14(2)

Indictment: 14 years imprisonment

Summary: 6 months imprisonment and/or statutory maximum fine (£5,000)

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>
Contact between part of the offender's body (other than genitalia) with part of the victim's body (other than genitalia)	2 months Custody + Compensation Order	Community Order to 3 months Custody + Compensation Order
Contact between part of the offender's body and the victim's clothed genitalia	3 months Custody + Compensation Order	Community Order to 6 months Custody + Compensation Order
Contact between part of the offender's body and the victim's naked genitalia	4 months custody + Compensation Order	Community Order to 6 months Custody + Compensation Order

Examples of Possible Aggravating Factors of Offence

1. More than one offender acting together
2. Abuse of trust/special relationship
3. Offence motivated by prejudice (race, religion, sexual orientation, physical disability)
4. Sustained attack
5. Negative impact on the victim(s)
6. More than one victim
7. Victims targeted, groomed, exploited
8. Physical or mental harm caused
9. Vulnerability of the victim

Examples of Possible Mitigating Factor of Offence

1. Youth and immaturity of the offender
2. Single isolated incident with minimal or fleeting contact

Relevant Cases:

NI Cases:

1. Attorney General's Reference (No. 4 or 2005) (Kerr) [2005] NICA 33
2. R v Horrocks (07/02/97)
3. Attorney General's Reference (No.16 of 2003) (Deery) [2003] NICA 44
4. Attorney General's Reference (No. 3 of 2001) (Hall) [2002] 2 BNIL 93
5. R v Lavery [2001] 4 BNIL 20 (CA)
6. Attorney General's Reference (No. 1 of 2003) [2003] NICA 19

English Cases

N/A

Notes:

1. This is a newly created offence but replaces indecent assault on a female (contrary to s.52 of the Offences Against the Person Act 1861) and indecent assault on a male (contrary to art.21 of the Criminal Justice (NI) Order 2003), where V is under 13.
2. The act committed is the same as Article 7 of the Sexual Offences (NI) Order 2008 (sexual assault) but here CONSENT IS NOT AN ISSUE.
3. Notification requirements under Part 2 of the Sexual Offences Act 2003 apply where the offender—
 - (a) was 18 or over, or
 - (b) is or has been sentenced in respect of the offence to imprisonment for a term of at least 12 months.
4. 'Children Barred List' and 'Vulnerable Adults Barred List' under the Safeguarding Vulnerable Groups (NI) Order 2007 apply.