

CRIMINAL DAMAGE

Criminal Damage (NI) Order 1977

3.- (1) A person who without lawful excuse destroys or damages any property belonging to another intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged shall be guilty of an offence.

Maximum Sentence:

Criminal Damage (NI) Order 1977, Art.9

Summarily: 2 years imprisonment and/or Level 5 fine (£5,000)

Indictment: 14 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>
Minor damage (e.g. breaking a small window; small amount of graffiti)	Fine* + Compensation Order	Fine to Community Order** + Compensation Order
Moderate damage (e.g. breaking a large plate glass window or shop window; widespread graffiti)	Community Order* + Compensation Order	Community Order to 3 months Custody** + Compensation Order
Significant damage (e.g. breaking multiple windows)	3 months Custody* + Compensation Order	Community Order to 12 months 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. Revenge attack 2. Targeting a vulnerable victim 3. Damage to emergency equipment 4. Damage to a public amenity 5. 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.*** 6. Attack performed by a group / gang 	N/A

Relevant Cases:

NI Cases:

Attorney General's Reference (No. 10 and 11 of 2009) [2009] NICA 63

R v Martin [2010] NICA 26

English Cases:

R v Gwynn [2002] EWCA Crim 2951

R v Roberts & Ors [1997] EWCA Crim 3013

R v Tuplin [2009] EWCA Crim 1572

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. Can be an offence of ‘violence’ for the purposes of a ‘Regulated Match Banning Order’ – Section 44 of the Justice Act (NI) 2011