

## CRUELTY TO PERSON UNDER 16

### Children and Young Persons Act (NI) 1968

20. - (1) If any person who has attained the age of sixteen and has responsibility for any child or young person under that age, wilfully assaults, ill-treats, neglects, abandons or exposes him, or causes or procures him to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement), that person shall be guilty of an offence ...

#### Maximum Sentence:

*Children and Young Persons Act (NI) 1968, s.20(1)*

*Indictment: 10 years imprisonment and/or Unlimited Fine*

*Summary: 6 months imprisonment and/or Fine of the prescribed sum (£5,000)*

#### Assessment of Offence

*(Starting points and ranges based on 1<sup>st</sup> time offender convicted following contest)*

<u>Nature of Offence</u>	<u>Starting Point</u>	<u>Sentencing Range</u>
<p>D subjected child to single incident of short-term neglect, short-term abandonment or short-term ill-treatment where only <u>no</u> physical/emotional injury resulted.</p> <p><b>OR</b></p> <p>D permitted child to be subjected child to single incident of short-term neglect, short-term abandonment or short-term ill-treatment where only <u>no</u> physical/emotional injury resulted.</p>	1 month Custody	Community Order to 6 months Custody
<p>D subjected child to single incident of short-term neglect, short-term abandonment or short-term ill-treatment where only <u>minor</u> physical/emotional injury resulted.</p> <p><b>OR</b></p> <p>D permitted child to be subjected child to single incident of short-term neglect, short-term abandonment or short-term ill-treatment where only <u>minor</u> physical/emotional injury resulted.</p>	3 months Custody	Community Order to 6 months Custody

#### Examples of Possible Aggravating Factors of Offence

1. Targeting one particular child in the family
2. Sadistic behaviour
3. Threats to prevent the victim from reporting the offence
4. Deliberate concealment of the victim from the authorities
5. Failure to seek medical help and/or assistance from the authorities
6. D had been placed in a position of trust
7. 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.\*

#### Examples of Possible Mitigating Factor of Offence

1. D has sought medical help and/or assistance from the authorities

#### Relevant Cases:

##### NI Cases:

1. R v W [2014] NICA 71

##### English Cases:

1. R v Durkin [1989] 11 Cr App R(S) 313
2. R v Andrew [1995] 16 Cr App R(S) 899
3. R v Ahmed [2003] 1 Cr App R(S) 40
4. R v J and M [2005] 1 Cr App R(S) 63
5. AG's Reference (No.105 of 2004) [2005] 2 Cr App R(S) 42

#### Notes:

1. Where offence committed against 2 or more children, D shall NOT be liable to a separate penalty in respect of each child except upon separate complaints [s.33(1) of the 1968 Act]; but 'multiple victims' is an aggravating factor of general application and remains applicable even where s.33(1) is engaged.

2. 'Reasonable punishment' of the child is not a defence to an offence under s.20 [Law Reform (Miscellaneous Provisions) (NI) Order 2006, Article 2].

3. For the purposes of an offence under section 20:

(a) a parent or other person legally liable to maintain a child or young person, or the legal guardian of a child or young person, shall be deemed to have neglected him in a manner likely to cause injury to his health if he has failed to provide adequate food, clothing, medical aid or lodging for him, or if, having been unable otherwise to provide such food, clothing, medical aid or lodging, he has failed to take steps to procure it to be provided under the Health and Personal Social Services (Northern Ireland) Order 1972 or Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

(b) where it is proved that the death of an infant under three years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the infant) while the infant was in bed with some other person who has attained the age of sixteen, that other person shall, if he was, whilst in bed, under the influence of intoxicating liquor or drugs, be deemed to have

neglected the infant in a manner likely to cause injury to its health.

[s.20(2) of the 1968 Act]

4. A 'specified offence' for the purposes of a 'Violent Offender Prevention Order' – Section 55 of the Justice Act (NI) 2015

5.\*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)