

EXPOSING CHILD UNDER 2 WHEREBY LIFE OR PERMANENT HEALTH IS ENDANGERED

Offences Against the Person Act 1861

27. Whosoever shall unlawfully abandon or expose any child, being under the age of two years, whereby the life of such child shall be endangered, or the health of such child shall have been or shall be likely to be permanently injured, shall be guilty of a misdemeanour ...

Maximum Sentence:

Offences Against the Person Act 1861, s.27

Indictment: 5 years imprisonment and/or Unlimited Fine

Magistrates' Court (NI) Order 1981, Art.46(4)

Summary: 12 months imprisonment or a fine not exceeding the prescribed sum (£5,000) or both

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>
Single incident of short-term abandonment/exposure where <u>no</u> physical injury resulted	1 months Custody	Community Order to 6 months Custody
Single incident of short-term abandonment/exposure where only <u>minor</u> physical injury resulted	3 months Custody	Community Order to 12 months Custody

Examples of Possible Aggravating Factors of Offence

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

N/A

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. Indictable offence triable summarily with consent of the accused (Art.45 of, and Sch.2 to, the Magistrate's Court (NI) Order 1981).
3. A 'specified offence' for the purposes of a 'Violent Offender Prevention Order' – Section 55 of the Justice Act (NI) 2015
- 4.*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)