

## INDECENT ASSAULT ON A FEMALE

### Offences Against the Person Act 1861

52. – Whosoever shall be convicted of any indecent assault upon any female shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding ten years or to be fined or both.

#### Maximum Sentence:

*Offences Against the Person Act 1861, s.52*

*Indictment: 10 years imprisonment and/or unlimited fine*

*Summary: 12 months imprisonment and/or 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>
Contact between part of the offender's body (other than genitalia) with part of the victim's body (other than genitalia)	Community Order + Compensation Order	Fine to Community Order + Compensation Order
Contact between part of the offender's body and the victim's clothed genitalia	Community Order + 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	3 - 12 months Custody + Compensation Order

#### Examples of Possible Aggravating Factors of Offence

1. Threats of violence or unpleasant consequences if victims disclosed abuse or did not comply.
2. Offender is in a position of trust or power over the victim.
3. Youth, innocence, and vulnerability of the victims.
4. Number of victims.
5. Physical harm caused.
6. Negative impact on the victims.
7. Deliberate practice of abuse over long period of time.
8. Victims targeted, groomed, exploited.
9. Offender shows no remorse.
10. Background of intimidation or coercion.
11. Use of drugs, alcohol or other substance to facilitate the offence.

#### Examples of Possible Mitigating Factor of Offence

1. Reasonably believed that victim consented.
2. Youth and immaturity of the offender.
3. Mutual consenting experimentation between teenagers.

#### Relevant Cases:

##### NI Cases

1. R v Lemon (20/12/96)
2. R v Charters [1989] NI 262
3. R v McCafferty 25.10.1991(JSB 2.35)
4. R v Larmour [2001] 6 BNIL 116 (CA)
5. AG's Reference (No 3 of 2001) (Hall) [2002] 2 BNIL 93 (CA)
6. Attorney General's Reference (No 9 of 2003) (Thompson) [2003] NICA 41

##### English Cases

N/A

#### Notes:

1. This offence was repealed by the Sexual Offences (Northern Ireland) Order 2008.
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. Notification requirements under Part 2 of the Sexual Offences Act 2003 apply where:
  - (a) the offender was under 18, he is or has been sentenced, in respect of the offence, to imprisonment of at least 12 months;
  - (b) in any other case –
    - (i) the victim was under 18; or
    - (ii) the offender, in respect of the offence, is or has been –
      - sentenced to a term of imprisonment;
      - detained in a hospital; or
      - made the subject of a community sentence of at least 12 months.
4. 'Vulnerable Adults Barred List' under the Safeguarding Vulnerable Groups (NI) Order 2007 applies; 'Children Barred List' applies where offence was committed against a child.