

SEXUAL ACTIVITY WITH A CHILD

Sexual Offences (NI) Order 2008

16. - (1) A person aged 18 or over (A) commits an offence if—
- (a) he intentionally touches another person (B),
 - (b) the touching is sexual, and
 - (c) either—
 - (i) B is under 16 and A does not reasonably believe that B is 16 or over, or
 - (ii) B is under 13.

Maximum Sentence:

Sexual Offences (NI) Order 2008, Art.16(2)-(3)

(1) Where the touching involved penetration of V's anus or vagina with a part of D's body or anything else; penetration of V's mouth with D's penis; penetration of D's anus or vagina with a part of V's body; or penetration of D's mouth with V's penis:

Indictment only: 14 years imprisonment

(2) Any other touching:

Indictment: 14 yrs imprisonment

Summary: 6mths 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 victim's body and the offender's clothed genitalia	3 months Custody + Compensation Order	Community Order to 6 months Custody + Compensation Order
Contact between part of the victim's body and the naked genitalia of the offender or second victim	4 months custody + Compensation Order	Community Order to 6 months Custody + Compensation Order

<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. More than one offender acting together 2. Abuse of trust 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 	<ol style="list-style-type: none"> 1. Closeness in age between the victim and the offender 2. Mutual consenting experimentation between teenagers 3. Single isolated incident with minimal or fleeting contact

Relevant Cases:

NI Cases:

R v SG [2010] NICA 32

R v McCormick [2015] NICA 14

English Cases:

R v Shiers [2006] EWCA Crim 181

R. v JK [2009] EWCA Crim 2437

R v Frew [2008] EWCA Crim 1029

R v. Harrison [2008] EWCA Crim 3170

Notes:

1. This offence replaced the offences of unlawful carnal knowledge of a girl under 17 (contrary to s.5 of the Criminal Law Amendment Act 1885), and also the offences of 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 the victim is under 16.
2. The offence applies where the child has given 'ostensible' consent to the activity.
3. Notification requirements under Part 2 of the Sexual Offences Act 2003 apply.
4. 'Children Barred List' and 'Vulnerable Adults Barred List' under the Safeguarding Vulnerable Groups (NI) Order 2007 apply.