

## THREATS TO DAMAGE PROPERTY

### The Criminal Damage (NI) Order 1977

- 4.- A person who without lawful excuse makes to another a threat, intending that that other would fear it would be carried out,-  
 (a) to destroy or damage any property belonging to that other or a third person; or  
 (b) to destroy or damage his own property in a way which he knows is likely to endanger the life of that other or a third person;  
 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 1<sup>st</sup> time offender convicted following contest)*

<u>Nature of Offence</u>	<u>Starting Point</u>	<u>Sentencing Range</u>
Single threat uttered in the heat of the moment and no more than a fleeting impact on victim	Fine*	Fine to Community Order**
Single calculated threat OR Victim has genuine fear that threat may be carried out	Fine*	Fine to 3 months Custody**
Repeated threats OR Offender had visible weapon when making threat	2 months Custody*	Community Order to 6 months Custody**

\* 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>
1. Vulnerable victim 2. As a result of the threat the victim needed medical help or counselling 4. Offender deliberately isolated victim 5. Group action 6. Threat directed at victim because of job 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.***	1. Provocation

#### Relevant Cases:

*NI Cases:*

R v Hughes [2003] NICA 16

*English Cases:*

R v McNally [1996] EWCA Crim 1333

R v Sullivan [1997] EWCA Crim 1198

#### Notes:

- \*\*\*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)
- Can be an offence of 'violence' for the purposes of a 'Regulated Match Banning Order' – Section 44 of the Justice Act (NI) 2011