

## SEXUAL ASSAULT

### Sexual Offences (Northern Ireland) Order 2008

7. – (1) A person (A) commits an offence if—
- (a) he intentionally touches another person (B),
  - (b) the touching is sexual,
  - (c) B does not consent to the touching, and
  - (d) A does not reasonably believe that B consents.
- (2) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.

#### Maximum Sentence:

*Sexual Offences (NI) Order 2008, Art.7(4)*

**Indictment: 10 years imprisonment**

**Summary: 6 months imprisonment and/or statutory maximum fine (£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 2 months Custody + Compensation Order
Contact between part of the offender's body and the victim's clothed genitalia	Community Order + Compensation Order	Fine 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 - 6 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 victim
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 December 1996) (Unreported)
2. R v Charters [1989] NI 262
3. R v McCafferty (25 October 1991) (Unreported)
4. R v Larmour [2001] 6 BNIL 116
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
7. Attorney General's Reference (No.2 of 2002) [2002] NICA 40

##### English Cases

N/A

#### Notes:

1. This offence replaced 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).
3. Notification requirements under Part 2 of the Sexual Offences Act 2003 apply:
  - (a) where the offender was under 18, he is or has been sentenced in respect of the offence to imprisonment for a term 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 or finding, is or has been –
      - (aa) sentenced to a term of imprisonment;
      - (bb) detained in a hospital, or
      - (cc) made the subject of a community sentence of at least 12 months.
4. 'Children Barred List' and 'Vulnerable Adults Barred List' under the Safeguarding Vulnerable Groups (NI) Order 2007 apply.

