

THREATS TO KILL

Offences Against the Person Act 1861

16. - A person who without lawful excuse makes to another a threat, intending that that other would fear it would be carried out, to kill that other or a third person shall be guilty of an offence ...

Maximum Sentence:

Offences Against the Person Act 1861, s.47

Indictment: 10 years imprisonment or an unlimited fine or both

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 threat uttered in the heat of the moment and no more than a fleeting impact on victim	Community Order*	Fine to 3 months Custody**
Single calculated threat OR Victim has genuine fear that threat may be carried out	3 months Custody*	Community Order to 6 months Custody**
Repeated threats OR Offender had visible weapon when making threat	6 months Custody*	3 - 12 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>
<ol style="list-style-type: none"> 1. Vulnerable victim 2. As a result of the threat the victim needed medical help or counselling 3. Offender deliberately isolated victim 4. Group action 5. Threat directed at victim because of job 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.** 	<ol style="list-style-type: none"> 1. Provocation

Relevant Cases:

NI Cases:

1. AG's Ref. (No.6 of 2008) (Haggan) [2009] NICA 42

English Cases:

1. R v Gaskin (1996) The Times, 15 August 1996

Notes:

1. ***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)
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. The maximum summary sentence in E&W is only 6 months imprisonment compared to 12 months in NI.
4. Can be an offence of 'violence' for the purposes of a 'Regulated Match Banning Order' – Section 44 of the Justice Act (NI) 2011
5. A 'specified offence' for the purposes of a 'Violent Offender Prevention Order' – Section 55 of the Justice Act (NI) 2015