

## WOUNDING / INFLICTING GRIEVOUS BODILY HARM (Section 20)

### Offences Against the Person Act 1861

20. - Whosoever shall unlawfully and maliciously wound or inflict any grievous bodily harm upon any other person, either with or without any weapon or instrument, shall be guilty of a misdemeanour ...

#### Maximum Sentence:

*Offences Against the Person Act 1861, s.20*

*Indictment: 5 years imprisonment or an unlimited fine or both (for offences committed before 28 September 2004)*

*7 years imprisonment or an unlimited fine or both (for offences committed on or after 28 September 2004)*

*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 1<sup>st</sup> time offender convicted following contest)*

<u>Nature of Offence</u>	<u>Starting Point</u>	<u>Sentencing Range</u>
Non-premeditated brief assault	4 months Custody* + Compensation Order	Community Order to 8 months Custody** + Compensation Order
Premeditated assault OR Sustained assault OR Assault involving gratuitous violence (e.g. kicking or stamping victim when on the ground) OR Assault was motiveless	8 months Custody* + Compensation Order	4 - 12 months Custody + Compensation Order

\* 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"> <li>1. Head-butting, biting, attempted strangulation or spitting</li> <li>2. Use of weapon</li> <li>3. 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.***</li> <li>4. Abuse of position of trust</li> <li>5. Offender was member of a group committing the offence</li> <li>6. Victim is particularly vulnerable</li> <li>7. Additional degradation of the victim</li> <li>8. Offence committed in the presence of a child</li> <li>9. Offence committed in victim's home or workplace</li> <li>10. Offender prevented victim from seeking or obtaining help</li> <li>11. Victim forced to leave home</li> <li>12. Offence took place in an isolated area</li> <li>13. Assault committed in the context of 'road rage'</li> </ol>	<ol style="list-style-type: none"> <li>1. Provocation</li> </ol>

#### Relevant Cases:

*NI Cases:*

1. R v Wright and Hall (10 June 1994)(Unreported)
2. AG's Ref. (No.1 and 2 of 1996)(Kennedy and Clarke) [1996] NI 456
3. R v D [2002] NICA 10

*English Cases:*

#### 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. \*\*A court may find the aggravating factor of 'the victim was engaged in providing a service to the public' to be sufficiently grave to warrant imposing a sentence outside the prescribed sentencing range.
3. 'Reasonable punishment' of the child is not a defence to an offence under s.20 (Law Reform (Miscellaneous Provisions) (NI) Order 2006).
4. Indictable offence triable summarily with consent of the accused (Art.45 of, and Sch.2 to, the Magistrate's Court (NI) Order 1981).
5. The maximum summary sentence in E&W is only 6 months imprisonment compared to 12 months in NI.
6. Can be an offence of 'violence' for the purposes of a 'Regulated Match Banning Order' – Section 44 of the Justice Act (NI) 2011
7. A 'specified offence' for the purposes of a 'Violent Offender Prevention Order' – Section 55 of the Justice Act (NI) 2015

