

## KEY DIFFERENCES BETWEEN THE VARIOUS TYPES OF ASSAULTS

| Type Of Assault                                                                                                        | What Do The Prosecution Need To Prove?                                                                                                                                                                                                                                                  | What Does That Mean?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Where Will My Case Be Heard?                                                                                                                                                                                                                                                                            | What Are The Possible Sentences?*                                                                                                                             |
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| <p><b>Grievous Bodily Harm (GBH) /wounding with intent</b></p> <p><i>s.18 Offences against the Person Act 1861</i></p> | <p>That a defendant:</p> <ul style="list-style-type: none"> <li>• Unlawfully AND maliciously</li> <li>• Caused grievous bodily harm OR wounded a person</li> <li>• With intent to cause grievous bodily harm OR resist lawful apprehension/ detention of yourself or another</li> </ul> | <p><b>Unlawfully:</b> Without excuse or justification in law (e.g. not in lawful self-defence).</p> <p><b>Maliciously:</b> Ill-will or an evil motive must be present. That you either intended to do the kind of harm or were reckless as to whether the harm would occur – it does not require ill-will towards the person injured.</p> <p><b>Grievous Bodily Harm:</b> Really serious harm.</p> <p><b>Intent:</b> You must have purposefully committed the act to cause really serious harm against another or lawful apprehension/ detention of yourself or another.</p> <p><b>Lawful apprehension:</b> Eg. Police arrest</p> | <p>The first appearance will be heard at a Magistrates' Court. At this hearing, the case will be sent to the Crown Court.</p>                                                                                                                                                                           | <p>3-16 years' custody.</p>                                                                                                                                   |
| <p><b>GBH /wounding without intent</b></p> <p><i>s.20 Offences against the Person Act 1861</i></p>                     | <p>That a defendant:</p> <ul style="list-style-type: none"> <li>• Unlawfully AND maliciously</li> <li>• Wounded OR inflicted grievous bodily harm</li> <li>• Upon another person</li> </ul>                                                                                             | <p><b>Unlawfully:</b> Without excuse or justification in law (e.g. not in lawful self-defence).</p> <p><b>Maliciously:</b> Ill-will or an evil motive must be present. That you either intended to do the kind of harm or were reckless as to whether the harm would occur – it does not require ill-will towards the person injured.</p> <p><b>Recklessly:</b> Is being aware of the existence of a risk but nonetheless goes on to take that risk.</p> <p><b>Grievous Bodily Harm:</b> Really serious harm.</p>                                                                                                                 | <p>The case will begin in the Magistrates' Court and thereafter, can continue to be heard in Magistrates' Court or can be sent to the Crown Court.</p> <p>Whether the case is sent to the Crown Court depends on the seriousness of the offence and where appropriate, the wishes of the defendant.</p> | <p>Community Order – 5 years custody.</p> <p>If the Offence is racially or religiously aggravated, the maximum sentence is increased to 7 years' custody.</p> |
| <p><b>Assault occasioning actual bodily harm (ABH)</b></p>                                                             | <p>That a defendant:</p> <ul style="list-style-type: none"> <li>• Unlawfully</li> <li>• Assaulted</li> </ul>                                                                                                                                                                            | <p><b>Unlawfully:</b> Without excuse or justification in law (e.g. not in lawful self-defence).</p> <p><b>Actual bodily harm:</b> Any hurt which interferes with health or comfort but not to a</p>                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>The case will begin in the Magistrates' Court and thereafter, can continue to be heard in Magistrates' Court or can be sent to the Crown Court.</p>                                                                                                                                                  | <p>Financial penalty – 5 years custody</p> <p>If the Offence is racially or religiously aggravated, the</p>                                                   |

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| <p><i>S.47 Offences against the Person Act 1861</i></p>                                         | <ul style="list-style-type: none"> <li>• Upon another person</li> <li>• Causing them actual bodily harm</li> </ul>                                                                                       | <p>considerable degree. This must be more than merely transient and trifling and normally there must be some sort of injury.</p>                                                                                                                                                                                                                                                                                                                                                     | <p>Whether the case is sent to the Crown Court depends on the seriousness of the offence and where appropriate, the wishes of the defendant.</p>                                                                                                                                                                                                                                                                                               | <p>maximum sentence is increased to 7 years' custody.</p>                                                                                                       |
| <p><b>Common assault – battery/assault by beating</b></p> <p>s.39 Criminal Justice Act 1988</p> | <p>That a defendant:</p> <ul style="list-style-type: none"> <li>• Intentionally OR recklessly</li> <li>• Applied unlawful force</li> <li>• To another person</li> </ul>                                  | <p><b>Intentionally:</b> That you must have purposefully committed the assault.</p> <p><b>Recklessly:</b> Is being aware of the existence of a risk but nonetheless goes on to take that risk.</p> <p><b>Applied unlawful force:</b> Be aware that often there will be some sort of 'minor' injury to the complainant however, the presence of an injury is not necessary to establish 'unlawful force.' Common examples include; spitting, pushing, grabbing hair and slapping.</p> | <p>Magistrates' Court only.</p> <p><i>Unless the offence is a racially or religiously aggravated common assault. In which case the case will begin in the Magistrates' Court and thereafter, can continue to be heard in Magistrates' Court or can be sent to the Crown Court.</i></p> <p><i>Whether the case is sent to the Crown Court depends on the seriousness of the offence and where appropriate, the wishes of the defendant.</i></p> | <p>Discharge – 26 weeks custody</p> <p><i>*If the offence is racially or religiously aggravated, the maximum sentence is increased to 2 years' custody.</i></p> |
| <p><b>Common assault – assault</b></p> <p>s.39 Criminal Justice Act 1988</p>                    | <p>That a suspect:</p> <ul style="list-style-type: none"> <li>• Intentionally OR recklessly</li> <li>• Caused another person</li> <li>• To apprehend immediate AND unlawful personal violence</li> </ul> | <p><b>Intentionally:</b> That you must have purposefully committed the assault.</p> <p><b>Recklessly:</b> Is being aware of the existence of a risk but nonetheless goes on to take that risk.</p> <p><b>To apprehend immediate and unlawful personal violence:</b> Actual physical violence does not need to be carried out. Threatening violence towards another by words or actions is often sufficient.</p>                                                                      | <p>Magistrates' Court only</p> <p><i>Unless the offence is a racially or religiously aggravated common assault. The case will begin in the Magistrates' Court and thereafter, can continue to be heard in Magistrates' Court or can be sent to the Crown Court.</i></p> <p><i>Whether the case is sent to the Crown Court depends on the seriousness of the offence and where appropriate, the wishes of the defendant.</i></p>                | <p>Discharge – 26 weeks custody</p> <p><i>*If the offence is racially or religiously aggravated, the maximum sentence is increased to 2 years' custody.</i></p> |

*\*Note this a guide only. Every sentence is determined on the aggravating and mitigating features of the individual case and the relevant personal circumstances of the defendant\**