

ASSAULTS AND ATTACKS



A QUICK GUIDE

prepared by John Precedo, September 2018

DISCLAIMER: I'm not a lawyer. This is guide is based on various resources available on the internet, and is for information only. It is not intended as a replacement for actual legal advice.

What to do if being assaulted

- If you can, remove yourself from the situation
- If an attack is taking place or has just happened, call **999**
- If it's not an emergency, you can report a crime on **101**, online or at a police station
- If you need medical help quickly but it's not an emergency, call **111**
- Collect evidence of the assault. Take photos and videos of the incident, the area it took place in and any injuries you sustained. Write down exactly what happened while events are still fresh in your mind. Make sure that any CCTV is retained.
- You can contact Victim Support even if you haven't reported the incident to the police. Call **08 08 16 89 111** (England and Wales) or **028 9024 3133** (Northern Ireland).

What is the legal definition of assault?

The general definition of assault in the UK is “inflicting intentional or reckless harm towards another individual”. Harm encompasses both physical and psychological harm (including causing someone to fear for their safety).

The level of injury caused is the most important factor in determining what level an offence may be charged as - this is the main distinction between the different levels of assault offences.

Degrees and types of offence

(all of these except the first one are types of assault)

Causing harassment, alarm or distress (Section 5 of the Public Order Act 1986)	
• Using threatening or abusive words • Threatening or abusive behaviour	• Disorderly behaviour • Displaying any writing or sign which is threatening or abusive

Battery (Section 39 of the Criminal Justice Act 1988)	
• Offensive contact • Poking	• Pushing

Common Assault (Section 39 of the Criminal Justice Act 1988)	
• Spitting • Punching • Shoving	• Slapping • Threats of violence

Racially-aggravated Common Assault

(Section 39 of the Criminal Justice Act 1988 + Crime and Disorder Act 1998)

- Premeditated fighting
- Discriminatory assault

Assault Occasioning ABH

(Section 47 of the Offences Against the person Act 1861 (OAPA))

- Slamming someone against a wall
- Scratching
- Punching resulting in minor cuts
- Biting

Premeditated ABH

- Targeting an individual
- Planning an attack

Unlawful Wounding

(Section 20 of the Offences Against the person Act 1861 (OAPA))

- Use of a shod foot (kicking, stomping)
- Head-butting

Single-blow GBH

(Section 20 of the Offences Against the person Act 1861 (OAPA))

- Knocking someone out with a single punch
- Use of a single strike with a weapon

Inflicting GBH

(Section 20 of the Offences Against the person Act 1861 (OAPA))

- Stabbing
- Use of a glass bottle
- Causing serious injury

Premeditated GBH

(Section 18 of the Offences Against the Person Act 1861 (OAPA))

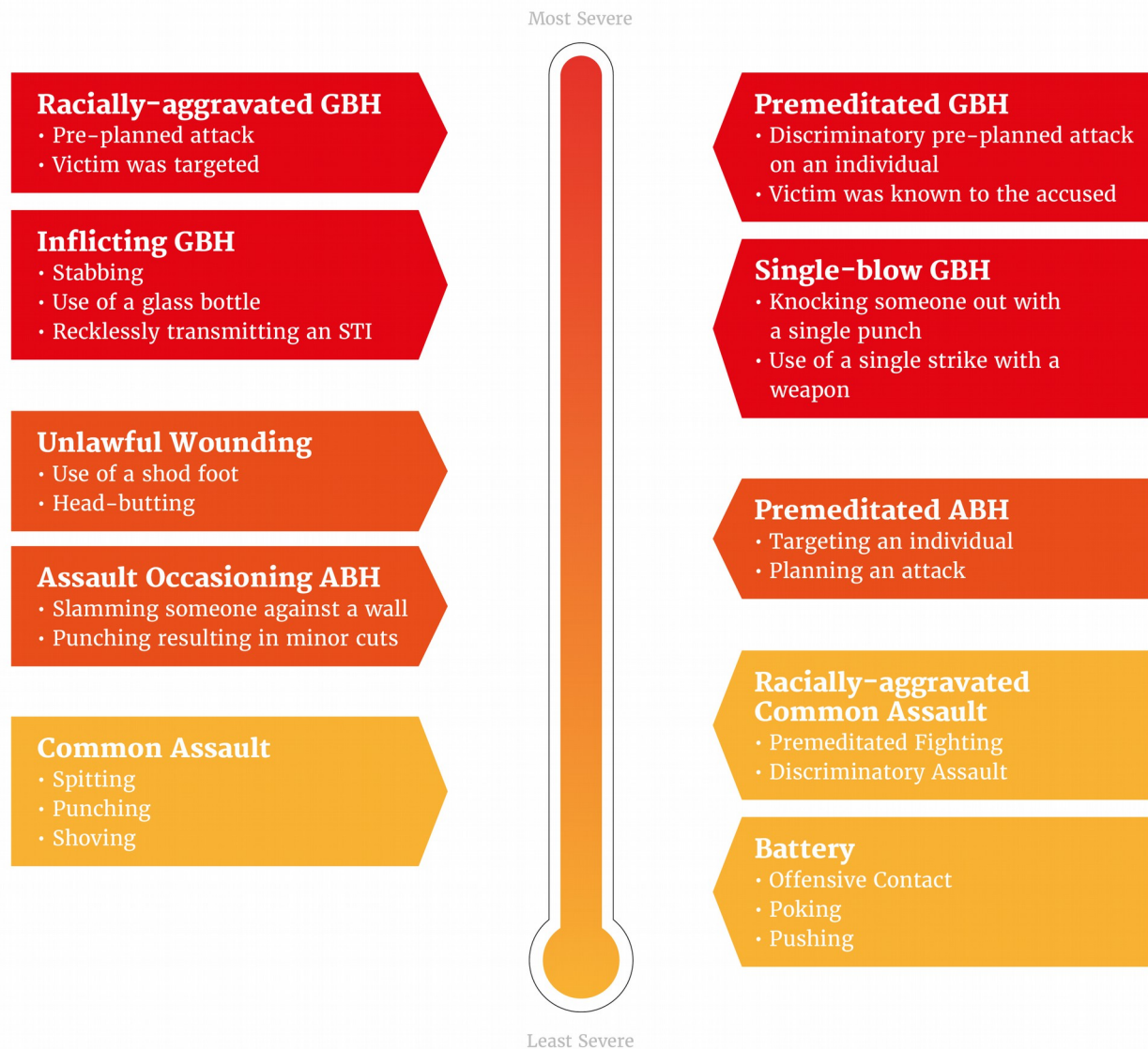
- Discriminatory pre-planned attack on an individual
- Victim was known to the accuser

Racially-aggravated GBH

(Offences Against the person Act 1861 (OAPA) + Crime and Disorder Act 1998)

- Pre-planned attack
- Victim was targeted

Varying Degrees of Assault



What is common assault?

Common assault or battery normally involves the unlawful touching of a person but does not require there to have been any injury. It can refer to either applying unlawful force on another person or of making them afraid that immediate force will be used against them

Common assault or battery is occasioned where there is more than transient or trifling contact. It is not necessary for the police or prosecution to prove injury. Normally, the prosecution will choose not to prosecute a case in court if there are no injuries at all as it would not be in the interests of justice to do so.

Assault refers to a threat of violence. Battery is the physical contact between the perpetrator and the victim.

Most minor assaults which have caused minor injuries or passing discomfort or pain will be prosecuted as common assault.

Potential sentences range from a nominal fine (usually around 50% of the individual's weekly income) up to a 6-month custodial prison sentence.

What is ABH? (Actual Bodily Harm)

Where injuries are sustained through assault but do not cause serious injury, this may constitute the offence of assault occasioning actual bodily harm (ABH).

Injuries that interfere with the health or personal comfort of a complainant may constitute the infliction of 'actual' harm through assault. Actual harm refers to the notable consequences caused by an assault, meaning physical and psychological injuries need only be of minimal detriment to health but must be proven.

Potential sentences range from community orders to up to 3 years' imprisonment.

What is Grievous Bodily Harm? (GBH)

Inflicting grievous bodily harm to another person is the most serious form of assault. The offence of GBH can be committed in two ways:

It can be intentionally inflicted, which is typically where the accused person is alleged to have intended to cause grievous levels of injury. This type of intentional wounding is contrary to Section 18 of the Offences Against the Person Act 1861 (OAPA) and carries a maximum sentence of life imprisonment. Individuals convicted of a Section 18 offence of wounding with intent will often receive lengthy prison sentences, often with significant restrictions on their freedom when they are released

It is also possible to commit GBH recklessly. GBH committed recklessly is contrary to Section 20 of the Offences against the Person Act 1861 (OAPA). A person convicted of this type of assault would be someone that didn't intend to inflict a serious injury but did so nonetheless.

Severe injuries are deemed to cause serious detriment to a victim's health, whether:

- Physically through wounding
- Psychologically if fear or paranoia are caused by the incident

If violence is inflicted with a weapon or the equivalent of a weapon, then the act is likely to be classified as inflicting grievous bodily harm intentionally (section 18).

Weapon equivalents are objects, items or parts of the body that are not themselves weapons but can be a weapon when used intentionally, such as:

- The use of shod feet (kicking or stomping whilst wearing shoes)
- Headbutting
- The use of acid as a weapon
- The use of an animal as a weapon

It is possible to inflict GBH with one strike or punch, however the more sustained, ferocious or prolonged the incident, the more likely it is to be viewed that the consequences were intended.

The court will consider a number of options and determine whether rehabilitative, non-custodial alternatives are suitable, compared to an immediate custodial term. If the facts of the case indicate a lower level of culpability, such as the use of a single blow, then the consequence could be as low as a community order. Depending on the factors of the case and the level of harm caused, starting points for sentencing can range from a 3 year to a 16 year custodial prison sentence.

Acknowledgements

This guide was based on the following resources:

"Varying degrees of assault in the UK" by Nick Titchener, director and solicitor advocate of Lawtons Solicitors.

<https://www.lawtonslaw.co.uk/resources/varying-degrees-of-assault/>

Offences against the Person, incorporating the Charging Standard (CPS)

<https://www.cps.gov.uk/legal-guidance/offences-against-person-incorporating-charging-standard>

Varying degrees of Assault graphic from

<https://www.lawtonslaw.co.uk/wp-content/uploads/2016/12/varying-degrees-assault.png>

Public Order Act 1986 - harassment, alarm or distress

<https://www.whatdotheyknow.com/request/366974/response/892883/attach/2/Extract%20Public%20Order%20Act%201986%20Doc.pdf>