



THE MAGISTRATE'S COURT

SENTENCING GUIDELINES

PART 2

PUBLIC ORDER OFFENCES

Page	Guideline No	Offence	Article
3	1	Assaults	

Assaults

Common law

Introduction

These guidelines deal with all assaults. The difference between an assault and a grave and criminal assault is one of degree. The higher end of the former will often overlap with the lower end of the latter. The higher end of the latter will require committal to the Royal Court. An assault on a Police officer or other person carrying out a public duty is treated for these purposes as an aggravating factor rather than with a separate guideline.

Offence seriousness (culpability and harm)

A. Identify the appropriate starting point

Starting points based on first time offender pleading guilty

Examples of nature of act	Starting point	Range
Assault with a low degree of force, involving little or no injury	£1,200	£500 - £2,000
Assault with considerable force resulting in moderate, non-permanent injury	6 months	£2,000 – 12 months
Assault, irrespective of force, resulting in serious injury	12 months	9 months – Committal

Offence seriousness (culpability and harm)

B. Consider the effect of aggravating and mitigating factors

The following may be particularly relevant but these lists are not exhaustive

Factors indicating higher culpability	Factors indicating lower culpability
<ol style="list-style-type: none">1. Use of a weapon to frighten or harm victim2. The nature of the weapon3. The weapon was carried prior to the offence4. Offence was planned or sustained5. The blow was aimed, e.g. kick to the head	<ol style="list-style-type: none">1. Significant provocation2. Single push, shove or blow3. The blow was random4. The assault took place/the weapon was obtained on the spur of the moment

<p>6. Head-butting, kicking, biting or attempted strangulation</p> <p>7. Offence motivated by, or demonstrating, hostility to victim on account of his or her sexual orientation or disability</p> <p>8. Offence motivated by hostility towards a minority group, or a member or members of it</p> <p>9. Abuse of a position of trust</p> <p>10. Offence part of a group action</p> <p>11. Racial motivation</p> <p>12. Religious motivation</p> <p>13. Intoxication</p> <p>Factors indicating greater degree of harm</p> <p>1. Serious or permanent injury</p> <p>2. Victim is particularly vulnerable or providing a service to the public e.g. a Police officer, paramedic</p> <p>3. Additional degradation of victim</p> <p>4. Offence committed in the presence of a child/in a domestic context</p> <p>5. Occurred within the victim's home, especially if there was a forced entry</p> <p>6. Offender prevented the victim from seeking or obtaining help</p> <p>7. Previous violence or threats to same victim</p> <p>8. Offence occurred in an isolated location</p> <p>Where assault on Police</p> <p>1. Seeking to escape from custody</p> <p>2. Head butting, kicking or biting</p> <p>3. Picking up an item to use as a weapon, even if not used</p>	<p>Where assault on Police</p> <p>1. Genuine belief that the arrest was unlawful, where this does not found a defence to the charge</p>
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Form a preliminary view of the appropriate sentence,
then consider offender mitigation

Consider Compensation and/or an Exclusion Order

Notes

1. Domestic abuse

Where the offence was committed in a domestic context, the Court will consider incorporating specific treatment programs into the sentence. The Definitive Guideline published by the Sentencing Guidelines Council in England will provide useful assistance.

2. Not a first offender

Where the defendant has one or more relevant previous convictions the Court will consider whether it should treat any of them as an aggravating factor, having regard to the nature of the offence to which each conviction relates, its relevance, if any, to the current offence, and the time that has elapsed since the conviction(s).

3. Personal mitigation

Matters of offender mitigation are often highly relevant to sentencing for assaults and may justify a non-custodial alternative, particularly in the case of a first offender. A guilty plea may have particular value in avoiding the need for a victim to attend Court.

4. Judicial discretion

It is recognised that this guideline covers a wide range of conduct and consequences, that not all aggravating factors carry the same weight and that flexibility is required to avoid an over-prescriptive approach.