

CAUSING OR INCITING A CHILD UNDER 13 TO ENGAGE IN SEXUAL ACTIVITY

Sexual Offences (NI) Order 2008

15. – (1) A person commits an offence if—
- (a) he intentionally causes or incites another person (B) to engage in an activity,
 - (b) the activity is sexual, and
 - (c) B is under 13.

Maximum Sentence:

Sexual Offences (NI) Order 2008, Art.15(2)-(3)

(1) Where the activity involved penetration of V's anus or vagina; penetration of V's mouth with a person's penis; penetration of a person's anus or vagina with a part of V's body or by V with anything else; or penetration of a person's mouth with V's penis:

Indictment only: Life imprisonment (Discretionary)

(2) Any other activity:

Indictment: 14 years imprisonment

Summary: 6 months imprisonment or statutory maximum fine (£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>
Causing/inciting contact between part of the offender's body (other than genitalia) with part of the victim's body (other than genitalia)	2 months Custody + Compensation Order	Community Order to 3 months Custody + Compensation Order
Causing/inciting contact between part of the victim's body and the offender's clothed genitalia	3 months Custody + Compensation Order	Community Order to 6 months Custody + Compensation Order
Causing/inciting contact between part of the victim's body and the naked genitalia of the offender or second victim	4 months custody + Compensation Order	Community Order to 6 months Custody + Compensation Order

<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. More than one offender acting together 2. Abuse of trust/special relationship 3. Offence motivated by prejudice (race, religion, sexual orientation, physical disability) 4. Sustained attack 5. Negative impact on the victim(s) 6. More than one victim 7. Victims targeted, groomed, exploited 8. Physical or mental harm caused 9. Vulnerability of the victim 	<ol style="list-style-type: none"> 1. Youth and immaturity of the offender 2. Single isolated incident with minimal or fleeting contact

Relevant Cases:

NI Cases:

R v SG [2010] NICA 32
R v Hume [2006] NICC 18
R v JC [2003] NICA 19

English Cases:

R v T [2008] EWCA Crim 815
Attorney General's Reference (No. 28 of 2010) [2010] EWCA Crim 1996
R v Corran [2005] EWCA Crim 192

Notes:

1. This offence, along with Article 17 of the Sexual Offences (NI) Order 2008, replaced the offences of 'causing or encouraging seduction or prostitution of a girl under 17' and 'gross indecency towards a child' (contrary to sections 21 & 22 of the Children and Young Persons Act (NI) 1968) where the victim is under 13).
2. The act committed is the same as Article 8 of the Sexual Offences (NI) Order 2008 (causing a person to engage in sexual activity without consent) but here CONSENT IS NOT AN ISSUE.
3. Maximum sentence under the old offence (gross indecency) was only 10 years.
4. Notification requirements under Part 2 of the Sexual Offences Act 2003 apply.
5. 'Children Barred List' and 'Vulnerable Adults Barred List' under the Safeguarding Vulnerable Groups (NI) Order 2007 apply.