

Common Assault – the Facts

What is common assault?

Common assault occurs when an individual or individuals (the “offender(s)”) purposely inflict unlawful or reckless force on another individual or individuals (the “victim(s)”) causing them harm.

The official, legal definition of an assault states it “requires conduct which causes the victim to be the subject of the immediate application of unlawful force upon him/her”.

It is often associated with violent or aggressive physical behaviour, but a fear or apprehension of possible violence may suffice. A common assault offence may be committed using a minimal level of force, for example, an unlawful touching may suffice to establish that the offence has taken place.

Is common assault against the law?

Yes, common assault is an offence under UK law contrary to Section 39 of the Criminal Justice Act 1988. It is a type of offence that can be tried ‘summarily’ that is, by a Magistrates’ Court.

Does a conviction for common assault carry the risk of a prison sentence?

Yes, the offence of common assault carries with it a risk of imprisonment with the maximum term of 26 weeks’ in custody. However, the offence is often dealt with by way of financial penalty and/or community order. The court also has the power to award compensation to the victim(s).

Who is most at risk of common assault?

The offence of common assault is most often charged in relation to incidents of domestic violence. Common assault is also a charge that can be preferred against those who are carers. The latter would relate to the alleged ill-treatment of service users, but will be subject to outside factors such as any care plan that may be in place. Assaults may also be committed in racially or religiously-aggravated forms. In those instances involving a potential hate crime motivation, the case would be triable either at the Magistrates’ Court or the Crown Court.

