

Chapter 7 Summary: Non-fatal offences against the person

Chapter 7 explores non-fatal offences against the person. Chiefly, this focuses on a ladder of offences defined in terms of the degree of harm caused by D, and set out in the Offences Against the Person Act 1861. The chapter then explores offences and aggravating factors outside of this ladder.

Assault and battery (Chapter 7.2)

Assault and battery are the least serious non-fatal offences, at the base of the ladder. Assault applies where D intentionally or recklessly causes V to apprehend immediate unlawful violence (key case: *Constanza*). Battery applies where D intentionally or recklessly inflicts unlawful violence upon V (key case: *Santana-Bermudez v DPP*).

Defences to assault or battery (Chapter 7.3)

As well as the general defences (discussed in chapters 13 and 14), the other defences applicable to assault and battery include:

- Parental chastisement (Children Act 2004, s58);
- Consent – where V has the capacity and information to consent;
- Belief in consent – where D believes that V has provided valid consent.

Assault occasioning actual bodily harm (Chapter 7.4)

Assault occasioning actual bodily harm is codified within section 47 OAPA 1861. This offence is committed where D assaults or commits battery upon V, and this action results in ABH.

Grievous bodily harm offences (Chapter 7.5-7.6)

Offences causing of a wound or grievous bodily harm are codified within section 18 and section 20 OAPA 1861. Section 18 applies where D intends to cause GBH; section 20 applies where D lacks intention, but does at least foresee the risk of some harm.

Defences to sections 47, 20 and 18 OAPA 1861 (Chapter 7.8)

As with assault and battery, consent and belief in consent defences are also applicable here. However, in order for these defences apply in this context (the more serious offences) D's conduct must also qualify within a category of acceptable conduct (key case: *Brown*).

Conduct-focused offences against the person (Chapter 7.9)

Outside of the standard 'ladder' offences, these offences either work as aggravating elements (eg, so called 'hate crimes'), or they are more concerned with the method by which the harm is inflicted rather than the degree (eg, torture, poisoning, domestic abuse etc).

Reform (Chapter 7.10)

With the 1861 statute still codifying the offences in this area, it is little surprise that there has been considerable call for reform and modernisation.

Eye on assessment (Chapter 7.11)

This section discusses the application of the offences against the person within a problem question, particularly focusing on the core laddered offences.