

# [There section 20 gbh, the only thing the](https://assignbuster.com/there-section-20-gbh-the-only-thing-the/)

There are many ways to evaluate Law and Sentences on specificnon-fatal offences, one way in doing so is looking at the criticisms ofnon-fatal offences.

The first criticism is the language of the laws being old(in the Act itself) as well as confusing. For example, in GBH section 20 and 18it uses terms such as “ Malicious” in modern day society nobody uses words likethis, this therefore doesn’t seem to be modernised, this was meant to define tobe: “ Recklessly” but gives the impression it infers committing something in anasty/hateful manner, it was meant to be for the Mens Rea but Mens Res has beendefined as “ with intent”. In addition to this, the term “ assault” in modern daysociety implies physical injuries to a victim after beating them. But, in termsof law it is just making somebody feel fear, this is misleading so when a personin court claims they have been assaulted they really mean they have been avictim of either: GBH, ABH or a Battery depending on the seriousness of theinjuries. Another criticism I am going to talk about is the fact that Mens Reain Section 47 doesn’t need any extra Mens Rea, it doesn’t have the requirement ofthe defendant to foresee a risk/injury, like in the case R v Roberts where the defendant offered to give the victim a liftand then demanded her to have sex with him as she said no he drove off with herat a high speed leading her to injure herself by jumping out. The defendantclaimed that he was unaware of risks and didn’t mean for the victim to sufferfrom ABH, even though he put her in a fearful state of mind leading to herjumping out of his car. The third criticism I’m going to talk about is the lackof the seriousness needed in the actual harm sector in Section 20 GBH, the onlything the prosecution need to show is that the defendant had intention to causesome harm, which could be the smallest form of harm. Like in the case R v Mowatt where the defendant beat thevictim unconscious due to the victim confronting the defendant about the defendant’spartner who helped steal form the victim.

It was decided that the Intention/recklessnessto cause a wound and/or GBH doesn’t need proving. Another criticism I’m goingto talk about is the actual offence known as a “ Battery” being misleading. Relating to Battery another criticism is there is no legal definition to defineboth “ assault & battery” the only thing close to a definition is the requirementsto cause them. Regarding ABH & GBH the separation doesn’t seem to be visible, it is actual the courts that make the decision of what causes serious harm, buteveryone has different opinions, especially when both ABH and GBH include psychologicalpain because it’s hard to decide what extent of it comes under what offence, with no boundary as a guidance there will be no proper way in deciding. The finalcriticism I will be talking about is using a “ wound” to separate Section 18from 20 being useless as there should only be one Section for GBH because ofthe case Moriarty v Brookes wherethe defendant hit a customer and used force to remove him from a pub.

He wasguilty as he broke the layers of the skin, but compared to a needle prick theseriousness is clearly different, so I believe if they had one Section they caneasily charge somebody with GBH and giving them a suitable sentence rather thatdeciding over a wound. GBH Section 18 is the offence of inflicting either a woundor GBH. The Actus Reus in Section 18 is to wound/ cause GBH to the victim.

TheMens Rea is the direct intention to cause GBH and not recklessness. The maximumsentence for GBH Section 18 is 25 years as it’s the more serious out of Section20 and 18. In addition to this, GBH Section 20 is the offence of inflicting a woundor GBH to the victim. The Mens Rea for this is the intention/ recklessness tocause some harm to the victim. The maximum sentence for GBH Section 20 is 5years in prison as it’s the least serious of the two. Moreover Section 47 ABH, can be caused by either an assault or battery. The Mens Rea for this isintention or recklessness to commit the assault or battery or both.

In ABH Section47 touching someone else’s clothes or spitting on them can amount to a battery. Even though they do not physically injure the victim, but they could possiblypsychologically injure them, this is unfair as they will be charged under ABH Section47 and will have the same sentence as someone who has amounted GBH. Also, anassault can just be committed by saying something to make the victim feelimmediate fear. An example of GBH Section 20 is breaking someone’s bone. ABH Section47 is caused by the slight direct touch.

By knowing this it is clear that thesentencing for these non-fatal offences have not been thought through due tothe difference is the elements of committing the crimes. There are some similaritiesin the crimes such as intention, but nothing major that fit GBH Section 20 and ABHSection 47 into the same sentencing. Therefore, I believe that the sentencingfor these opposite crimes should be reconsidered. However, the maximum sentencefor GBH Section 18 is 25 years. This is a very big gap between the non-fataloffences even though GBH Section 20 and Section 18 are very similar in terms ofthe wounding, the problem seems to be if the sentence length should bedependent on the intention of causing GBH such as Recklessness or Directintention? I believe Section 18 and Section 20 should both have the samesentence such as 10-15 years in prison where the judge is able to decide on thelength of the sentence depending on how severe the victim’s injuries are.