

England and Wales

Table of cases of people charged with Grievous Bodily Harm under Section 20 of the Offences Against the Person Act 1861, for reckless sexual transmission of serious infections (HIV and viral hepatitis) in England and Wales



Name	Age	Court	Date of trial	Complainants	Plea	Court Verdict	Sentence	Comments
Mohammed Dica*	38	Inner London	Oct 2003	2 women	Not Guilty	Guilty	8 years	2 counts of 42 and 54 months to run consecutively
Mohammed Dica		Appeal Court	May 2004	-	-	Appeal Allowed - re-trial ordered	-	Judge ruled to have mis-directed the jury
Mohammed Dica		Central Criminal Court	Mar 2005	1 woman	Not Guilty	Guilty	4 years 6 months	Dropped to one count First retrial Jun '04 halted
Kouassi Adaye	40	Liverpool	Jan 2004	1 woman	Guilty	Guilty	4 years	Convicted of other offences
Feston Konzani*	28	Teesside	May 2004	5 women	Not Guilty	Guilty (2 acquittals)	10 years	4 years, 3 years and 3 years to run consecutively
Feston Konzani		Appeal Court	Feb 2005	-	-	Appeal Dismissed	-	Sentence unchanged despite support from one complainant for a reduction
Paulo Matias	38	Leicester	Jul 2005	1 woman	Guilty	Guilty	3 years	Died Jan 2006
Anonymous woman	20	Cardiff	Jul 2005	1 man	Guilty	Guilty	2 years	First woman charged
Derek Hornett	44	Exeter	Dec 2005	1 woman	Guilty	Guilty	3 Years 3 months	Also given a Sexual Offences Act Prevention Order requiring disclosure before any future sexual relationship
Mark James	47	Isleworth	Apr 2006	1 man	Guilty	Guilty	3 years 4 months	First case involving gay men
Sarah Porter	43	Inner London	Jun 2006	1 man	Guilty	Guilty	2 years 8 months	
Male	20's	Kingston	Aug 2006	1 man	Not Guilty	Not Guilty	Acquitted	First acquittal after defence expert disputed the virological evidence
Clive Rowlands	43	Liverpool	Nov 2006	1 woman	Guilty	Guilty	2 years 6 months	Both complainant and defendant had previously diagnosed psychiatric conditions

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Anonymous man	35	Bournemouth	Jan 2007	1 woman	Guilty	Guilty	3 years 6 months	
Male	51	Preston	Apr 2007	1 man	Not Guilty	Not Guilty	Acquitted	Dismissed by the judge but convicted of another offence
Male*	39	Manchester	Feb 2008	1 woman	Not Guilty	Not Guilty	Acquitted	Dismissed by the judge
Ercan Yasar#	29	Gloucester	Nov 2008	1 woman	Guilty	Guilty	2 years	Prosecuted and convicted for Hepatitis B only not HIV
James Cawley	41	Preston	Nov 2008	1 woman	Guilty	Guilty	1 year	Woman went on to infect another man
Male	33	Leicester	Nov 2008	1 woman	Not Guilty	Not Guilty	Acquitted	CPS dropped the case but convicted of other offences

***No one has been convicted under Section 18, or 'intentional transmission' although Mohammed Dica and Feston Konzani were initially charged under Section 18 and the charged subsequently dropped to section 20, or 'reckless transmission'. The man tried at Manchester Crown Court in February 2008 was charged both with intentional and reckless transmission with the former charge dropped and the latter dismissed.**

#All cases of sexual transmission have been for HIV except Ercan Yasar who was convicted of transmitting Hepatitis B. It was alleged that Ercan had also transmitted Chlamydia but this did not form part of the charge against him.

Section 20 of the Offences Against the Person Act 1861 reads, "Whosoever shall unlawfully and maliciously wound or inflict any grievous bodily harm upon any other person, either with or without any weapon or instrument, shall be guilty" of the offence. In its recent guidance the Crown Prosecution Service described this as "when a person inflicts grievous bodily harm upon another without intending to do so (that is, where they are 'reckless')". The maximum penalty is 5 years imprisonment for a Section 20 Offence.

(Reference at <http://www.cps.gov.uk/publications/prosecution/sti.html#09>)

In England and Wales it is not possible to be charged for exposure where there has been no transmission of an STI.

When a partner knows the person has HIV or the relevant STI and consents to the sexual activity no crime is committed. It is also possible to be charged with attempting to intentionally transmit a serious sexual infection under the Criminal Attempts Act 1981. There have so far been no cases.

Scotland

Table of Cases of people charged with the common law offence of 'Culpable and Reckless Conduct' for sexual transmission of serious infections (HIV and viral hepatitis) in Scotland



Name	Age	Court	Date of trial	Complainants	Plea	Court Verdict	Sentence	Comments
Stephen Kelly ¹	33	Glasgow	Feb 2001	1 woman	Guilty	Guilty	5 years	First case in the UK
Male	34	Paisley	May 2005	1 woman	Not Guilty	Not Guilty due to insanity	Sectioned	Taken to a secure hospital
Giovanni Mola	38	Glasgow	Nov 2006	1 woman	Not Guilty	Guilty	9 years	Also convicted of sexually transmitting Hepatitis C
Mark Devereaux	41	Dumbarton	Feb 2008	4 women	Guilty	Guilty	10 years	First exposure case. Transmission occurred in only one case.

The law in Scotland concerning this is a common law offence and so no specific definition is given of 'Culpable and Reckless Conduct', which may also be called 'Causing Real Injury', but the draft Scottish Legal Code describes it as "A person who intentionally or recklessly causes injury to another person, without that person's consent, is guilty of the offence of causing unlawful injury."
 (Reference at http://www.scotlawcom.gov.uk/downloads/cp_criminal_code.pdf)

Exposure to an STI without transmission is also a crime. The importance of consent has not been decided in Scottish law. All cases were for infection with HIV although Giovanni Mola was also convicted for transmitting Hepatitis C as well.

Those people whom the judge directed should not be named for legal reasons have been described as 'anonymous woman' or 'anonymous man'. The people acquitted of the charge have not been named and have been listed simply as 'female' or 'male'.

There have been no cases in Northern Ireland so far. The law is the same as in England and Wales except that a sentence may be up to 7 years. Data collated by Robert James, March 2010.

¹ There was also a mid-trial judgement regarding the admissibility of the results of blood tests Mr Kelly had had while he was in prison that allowed their inclusion in the trial.