

5. NON-FATAL, NON-SEXUAL OFFENCES AGAINST THE PERSON

5.1 COMMON LAW OFFENCES AGAINST THE PERSON

CL Summary Offences Act 1966 s 23 Common Assault – “Any person who unlawfully <u>assaults</u> or <u>beats</u> another person shall be guilty of an offence.”	
Non-Physical Interference:	
AR: <ol style="list-style-type: none">1. Voluntary act2. Positive act (or words, not omission)3. Victim must apprehend imminent and unlawful violence4. Causation – D’s act caused V’s fear <p>Consider: was threat conditional?</p>	MR: <ol style="list-style-type: none">1. Intentional2. Reckless
Physical Interference:	
AR: <ol style="list-style-type: none">1. Voluntary act2. Positive act3. Without V’s consent4. Causation	MR: <ol style="list-style-type: none">1. Intentional2. Reckless
Also consider: <ol style="list-style-type: none">1. MR and AR must be contemporaneous (Fagan)2. Defences	

definition of ‘assault’

Use the case:

FAGAN [1969]

Assault: (threatening to hit, creating fear) ‘intentionally or recklessly causing another to apprehend immediate and unlawful personal violence’

Positive act, not omission.

Battery: (now part of assault, actually hitting) ‘the actual intended use of unlawful force to another person without his [or her] consent’

Positive act, not omission.

MR: ‘intentionally or recklessly’ applies as well – is assumed.

NON PHYSICAL INTERFERENCE (AR):

- ‘Positive act’

R v Ireland [1997] - Extended the definition of assault

- Silence on the phone = positive act
- Phone calls = can lead fear of imminent application of force.