

TRESPASS TO THE PERSON

Definition: *An unlawful intrusion that interferes with one's person or property.*

Torts – Trespass (to the person – battery, assault, false imprisonment)

- **Action on the case** – Intentional indirect infliction of personal injury

Battery

Definition: Battery is the **fact** of **unwanted contact**. A battery is a direct act by the defendant causing bodily contact with the plaintiff without his or her consent.

NB: Any form of touching may constitute battery, and does not mean that it requires an injury. Eg: *Cole V. Turner*

Requirements:

1. There must be physical contact
2. Must occur without the plaintiff's consent
3. Done with intent
4. Although contact needs to be made, it can be done so through an object (ball, squib, spitting (*Coteworth's case* p734) etc.

Notes: without consent – express
- Implied

Assault

Definition: The threat of unwanted contact. An assault is the **intentional direct threat by the defendant that causes the plaintiff reasonably to apprehend some imminent unwanted contact** with his or her person.

Requirements:

1. A threat by the defendant (words or conduct) to inflict physical harmful or offensive contact upon the plaintiff. (Sufficient if it is to make contact with the body without their consent)
2. A subjective intention that the defendant will create apprehension that the threat will be carried out (not necessary to prove they will). The defendant intends to give the plaintiff the idea they will follow through.
3. The defendant must create in the mind of the plaintiff an apprehension that the threat will be carried out. (The P doesn't need to fear the threat)
4. The apprehension in the mind of the P must be objectively reasonable.

AND

5. There must be at least the possibility of physical contact for the threat to constitute assault.
6. The threat doesn't need to be carried out for it be considered assault

Notes:

- Conditional threat – I will cut you to bits *IF* you move. Can also not be a threat as it may not be imminent
- *Crown V. Ireland* – silent phone calls can be considered assault if they meet circumstances
- *Zanker V. Vartzokas* – offered a lift, offered money for sexual favours. His "friends would fix her up" – **threat/assault**. His friend's house is an immediate threat as she cannot comprehend how close this is. **False imprisonment** is when she attempted to leave the vehicle and he sped up.