



Home Office

## **Information Note for Retailers**

Section 156 of the Police, Crime, Sentencing and Courts Act 2022: Assaults on those providing a public service

July 2022

## Overview

This note provides information for the retail sector about the statutory aggravating factor introduced via [Section 156 of the Police, Crime, Sentencing and Courts Act 2022](#) which came into force on 28 June 2022. It explains how retailers can play their part by reporting incidents, working in partnership with businesses and the police, and supporting their employees.

Violence and abuse affect a broad spectrum of victims. The retail sector and other sectors with staff providing a service to the public have seen an increase in the frequency and severity of violence and abuse experienced by staff.

This legislation is intended to send a very strong signal that assaults of this kind are unacceptable and that those who are serving the public are protected from abuse when working.

## What does the provision do?

Section 156 of the Police, Crime, Sentencing and Courts Act 2022 creates a statutory aggravating factor which must be considered by the courts when an assault offence has been committed against those who provide a public service, perform a public duty, or provide a service to the public. The new statutory aggravating factor is based on an aggravating factor currently set out in the Sentencing Council's sentencing guidelines.

Where the court is considering the seriousness of an assault offence for the purposes of sentencing, if the offence was committed against a person: (i) providing a public service, (ii) performing a public duty, or (iii) providing services, goods or facilities to the public; the court now must treat that fact as an aggravating factor and must state in open court that the offence is aggravated.

The provision applies in cases of assault where an offence is committed by someone over the age of 18 against someone working in the public sector, performing a public duty or providing a service to the public. For example, this includes retail workers, hospitality workers, those working for/within central government and local authorities; parliamentarians; education sector; social care sector and the armed forces.

The offences covered by this provision are:

- common assault and battery, except where section 1 of the Assaults on Emergency Workers (Offences) Act 2018 applies;
- an offence under any of the following provisions of the Offences against the Person Act 1861— threats to kill, wounding with intent to cause grievous bodily harm, malicious wounding or assault occasioning actual bodily harm;
- an inchoate offence in relation to any of the preceding offences; and
- any other offence, where the court considers this factor to be relevant.

Common assault generally applies to cases where there is little or no injury. If violence is used in a common assault, it is called a “battery”. For example, common assault could apply where a person is hit or kicked with minor injury, or where a person is pushed, grabbed or spat at without physical injury.

Physical contact does not have to occur for an assault to take place. For example, threatening behaviour like raising fists, causing someone to fear that violence may be used against them, may constitute assault.

The provision could also apply in cases of verbal harassment, where this is severe enough to go to court, as this aggravating factor may be applied to any offence where the court considers it to be relevant.

This provision does not change the current maximum penalties for the offences covered, which in the case of common assault is six months’ imprisonment and/or an unlimited fine. For assault occasioning actual bodily harm, the maximum penalty is five years’ imprisonment. Aggravating factors are considered by the court when making sentencing decisions and the provision allows the court to consider a tougher sentence within the maximum penalty.

### Communicating the change

The Home Office Minister for Crime and Policing wrote to all Chief Constables and Police and Crime Commissioners in December 2021 to make them aware of the change, and to encourage them to continue to work closely with local businesses – including the retail sector - to ensure the police can provide the best possible support to those in front line roles.

The changes have also been communicated to the Police via the Home Office [Circular 005/2022](#) on the Police, Crime Sentencing and Courts Act 2022.

The Sentencing Council guidelines have been updated to reflect the changes to ensure the courts are aware the aggravating factor has been made statutory.

The Minister for Crime and Policing has engaged with retailers and policing via the National Retail Crime Steering Group (NRCSG) to promote the change and the need for partnership working and the continued reporting of these crimes.

### Monitoring the impact

The Government will pay close attention to the impact this change has. One of the main indicators of whether incidents have reduced is the experience of workers and whether they feel safer at work. Data gathered in retail sector surveys are an important indicator of this and help to build a wider picture of all incidents that have taken place and their outcomes.

Data is not collected on the use of aggravating factors, including those in statute. However, when handing down a sentence, the presiding judge will read out the sentencing remarks. The remarks will include an explanation of what aggravating and mitigating factors were considered relevant to the case, and how they contributed to the determination of the sentence.

### What should retailers do?

Employers should make clear that violence, abuse and threats should never be part of a retail worker's job. They should make their staff aware of the new statutory aggravating factor and that the serious nature of violence against public-facing workers is now recognised in law. Employers should ensure employees understand the procedure for reporting incidents in their workplace, managers are aware of procedures to follow when an incident takes place and that incidents will be reported to police where appropriate.

Retailers should report incidents, gather and record relevant evidence and work closely with the police to ensure incidents are dealt with appropriately. It is crucial that violent assaults are reported to police and employers are able to provide the evidence to take these cases to court.

## **Report incidents:**

All crimes should be reported to the police, particularly crimes involving violence, or the threat of violence or abuse. If the crime is in progress, the most important thing to think about is the safety for all those at the scene.

Retailers should inform the police if violence has been used or someone has been threatened, physically or verbally, and always report this first. This information will help the police to decide on the most appropriate response. In a non-emergency situation, a crime can be reported over the phone via 101 or online via [police.uk](https://www.police.uk) or the Crimestoppers [website](#).

## **Provide a Victim Personal Statement or a Victim Business Impact Statement:**

The [Victim Personal Statement](#) (VPS) gives victims an opportunity to explain how the crime has affected them, physically, emotionally, psychologically, financially or in any other way. Retailers should encourage their staff who are victims of crimes including violence and abuse, to provide a victim personal statement.

Under the Victims' Code, all businesses or enterprises that have had criminal offences committed against them are entitled to make an [Impact Statement for Business \(ISB\)](#), to set out how the offence(s) have affected the business. An ISB may be made at the same time as a witness statement or Victim Personal Statement.

Information provided in victim impact statements will assist the court in considering the impact of the offence and the appropriate sentence.

## **Work in partnership with other businesses and the police:**

Partnership working between businesses, with the police and other agencies, has a number of benefits in reducing business crime. Working together and sharing data builds a clearer picture of the crime affecting local stores and helps the police respond effectively. Retailers are encouraged to join their local crime reduction partnership and work collaboratively to help drive down crime.

There are different types of partnerships that businesses can get involved with including joining a Business Improvement District (BID) or a Business Crime Reduction Partnership (BCRP). Through BCRPs and BIDs, retailers and the police can work together to prevent repeat offenders from targeting businesses. For

example, many offer a communications network and run exclusion schemes to collectively exclude individuals from member premises.

To check whether a BCRP is set up in an area, businesses should contact the [National Association of Business Crime Partnerships \(NABCP\)](#), the [National Business Crime Solutions \(NBCS\)](#) or refer to Gov.uk. For information and guidance on Business Improvement Districts, they should refer to the [BID Gov.uk webpage](#).

### **National Retail Crime Steering Group (NRCSG) resources**

The National Retail Crime Steering Group (NRCSG) brings together the Government, retailers and policing to ensure the response to retail crime is as robust as it can be, and assaults are not seen as part of a retail worker's job. The NRCSG has produced a range of practical resources for businesses. These include a best practice guide to support staff in the reporting of crimes, guidance on effective data sharing between businesses and the police, resources to signpost retailers to initiatives across the country working to tackle prolific offending and the #Shopkind communications campaign. This work is ongoing and the [downloadable resources](#) are free to use.

Retailers are encouraged to support the #ShopKind campaign. This is uniting the retail sector to tackle violence and abuse against shopworkers by asking people to shop with kindness when in stores. It aims to encourage positive behaviours in shops, acknowledge the important role of shopworkers and highlight the scale and impact of violence and abuse against shopworkers.

Free print and social [media campaign materials](#) are available to download via the National Business Crime Centre (NBCC) website. The [NBCC website](#) hosts a range of guidance and crime prevention advice for businesses.

Businesses can help to spread the ShopKind message by:

- Discussing #ShopKind with colleagues, encouraging their organisation to think about the steps they can take to help customers shop with kindness.
- Becoming a ShopKind Champion. ShopKind Champions are key supporters of the ShopKind campaign. This involves committing to spread the ShopKind message on social media, in their business and across their network. The Shopkind Champion [pack](#) has for more information.

## **Provide support to Employees:**

Being a victim of abuse or violence can have a devastating impact. Retailers should make sure people in their organisation or network know where they can access support. Employers should ensure managers are fully trained on the procedures to follow when an incident takes place.

Following a recommendation made in the Home Affairs Select Committee [report](#) on Violence and Abuse towards retail workers, members of the National Retail Crime Steering Group have developed a '[Framework for Employers](#)'. The Framework brings together existing good practice within the sector and acts as a template which can be used by retailers to demonstrate how they will support their employees to prevent violence and abuse in retail settings, and support employees who experience this behaviour.

The framework aims to drive best practice among retail employers, and signposts sources of guidance and advice for how employers can help to protect the wellbeing of their employees. It includes a post-incident support process which highlights the practical steps employers should be taking to support retail workers after an incident of violence and abuse occurs, for example, their responsibility to ensure incidents are reported, risks are analysed and appropriate support systems are put in place. The content and style of the framework can be adapted to suit the employer's existing processes, or existing corporate pledge on protecting employees at work. Retail employers are encouraged to use this framework to demonstrate their commitment to supporting their employees.