

Cruelty to children under 16 s 364

The prosecution must prove that:

1. The defendant had the lawful care or charge of the child, who was under 16 years.
2. He caused harm¹ to the child by failing to provide the child with adequate food (or clothing, medical treatment, accommodation or care).²
3. The defendant was able, from his own resources, to provide food.³
4. The defendant knew, or ought reasonably to have known, that failing to provide the child with adequate food would be likely to cause the child harm.

¹ Any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing, whether temporary or permanent: s 364(2).

² Section 364(2).

³ Where the defendant does not have the resources to provide adequate food (or clothing, medical treatment, accommodation or care) the charge is one of failing to take all lawful steps to obtain it. Other forms of prescribed conduct under s 364(2) are deserting the child and leaving the child without means of support.