

Domestic Burglary

Theft Act 1968 (section 9)

This guideline applies only to offenders aged 17 and under

Triable either way

Maximum when tried summarily: 2 year's custody

Maximum when tried on indictment: 14 years' custody

Offence range: Discharge – 4 years' detention

This is a serious specified offence for the purposes of sections 224 and section 226 of the Criminal Justice Act 2003

Grave crime provisions under section 24 Magistrates' Courts Act 1980 and section 91 of the Powers of the Criminal Courts (Sentencing) Act 2000 apply

STEP ONE**Determining the offence category**

The court should determine the offence category with reference only to the factors listed in the tables below. In order to determine the category the court should assess the **culpability** and **harm** caused or intended.

The court should weigh all the factors set out below in determining the offender's culpability.

Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.

Category 1	Greater harm and higher culpability
Category 2	Greater harm and lower culpability or lesser harm and higher culpability
Category 3	Lesser harm and lesser culpability

Factors indicating greater harm
Theft of/ damage to property causing a significant degree of loss to the victim (whether economic, sentimental or personal value)
Soiling, ransacking or vandalism of property
Occupier at home (or returns home) while offender present
Trauma to the victim, beyond the normal inevitable consequence of intrusion and theft
Violence used or threatened against victim
Context of general public disorder
Factors indicating lesser harm
Nothing stolen or only property of very low value to the victim (whether economic, sentimental or personal)
Limited damage or disturbance to property

Factors indicating higher culpability
Victim or premises deliberately targeted (for example, due to vulnerability or hostility based on disability, race, sexual orientation)
A significant degree of planning or organisation
Knife or other weapon carried (where not charged separately)
Equipped for burglary (for example, implements carried and/ or use of vehicle)
Members of a group or gang
Factors indicating lower culpability
Offence committed on impulse, with limited intrusion into property
Offender exploited by others
Mental disorder or learning disability, where linked to the commission of the offence

STEP TWO**Starting point and category range**

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to offenders aged 17. Adjustment is to be made according to the chronological and emotional age of the offender relative to a 17 year old. The starting point applies irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of culpability or harm in step 1, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out below.

Specific provisions relating to sentencing young people:

Except where the dangerous offender provisions apply:

- (i) Where the young offender is aged 12, 13 or 14, a custodial sentence may only be imposed if the youth is a 'persistent offender' or has committed a 'grave crime' warranting detention for a period in excess of 2 years.
- (ii) Where a young offender is aged 10 or 11, no custodial sentence is available in the youth court.
- (iii) Where a custodial sentence is imposed in the youth court, it must be a Detention and Training Order (DTO), which can only be for 4/6/8/10/12/18 or 24 months.
- (iv) Where a custodial sentence is imposed in the Crown Court, it may be a DTO or it may be detention for a period up to the maximum for the offence.

Non Custodial Sentences

Where the compulsory referral order conditions apply the court **must** make a referral order unless the court proposes to give the offender a custodial sentence, an absolute or conditional discharge or a hospital order.

Offence Category	Starting Point (<i>Applicable to all offenders</i>)	Category Range (<i>Applicable to all offenders</i>)
Category 1	24 months DTO	18 months DTO – 4 years' detention
Category 2	6 months DTO	YRO – 18 months DTO
Category 3	YRO	Discharge – 4 months DTO

The table below contains a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. The court must have regard to these factors as well as the welfare, maturity and intelligence of the young person. The court must identify whether any combination of these or other relevant factors should result in an upward or downward adjustment from the starting point. **In particular, relevant recent convictions are likely to result in an upward adjustment.** In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

Factors increasing seriousness

Statutory aggravating factors:

- Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction
- Offence committed whilst on bail

Other aggravating factors:

- Steps taken to prevent the victim reporting or obtaining assistance and/or from assisting or supporting the prosecution
- Victim is targeted due to a vulnerability (or a perceived vulnerability), including but not limited to age, mental or physical disability
- Involvement of others through coercion, intimidation or exploitation
- Prolonged nature of event
- Restraint, detention or additional degradation of the victim
- A leading role where offending is part of a group activity
- Child or vulnerable person at home (or returns home) when offence committed
- Victim compelled to leave their home
- Attempts to conceal/dispose of evidence
- Established evidence of community/wider impact
- Failure to comply with current court orders
- ~~Offence committed on licence~~
- Failure to respond to warnings about behaviour
- Timing of the offence
- Attempt to conceal identity (for example, wearing a balaclava or hood)
- Commission of offence whilst under the influence of alcohol or drugs

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- Remorse, particularly where evidenced by voluntary reparation to the victim
- Good character and/or exemplary conduct
- Serious medical conditions requiring urgent, intensive or long-term treatment
- Sole or primary carer for dependant relatives
- Determination and/or demonstration of steps having been taken to address addiction or offending behaviour
- Participated in offence due to bullying or peer pressure from others
- Peripheral involvement where offence involves a group or gang

STEP THREE

Review of the sentence

Once the court has made an initial decision about the sentence it should “step back”, review and, if necessary, adjust the sentence reached at step two to ensure that it fulfils the general principles of sentencing youths.

STEP FOUR

Consider any factors which indicate a reduction for assistance to the prosecution

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FIVE

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

STEP SIX

Dangerousness

The court should consider whether having regard to the criteria contained in Chapter 5 of Part 12 of the Criminal Justice Act 2003 it would be appropriate to impose a life sentence (section 224A) or an extended sentence (section 226A). When sentencing offenders to a life sentence under these provisions, the notional determinate sentence should be used as the basis for the setting of a minimum term.

STEP SEVEN

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour.

STEP EIGHT

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders.

Where the offence involves a firearm or an offensive weapon the court may consider the criteria in section 19 of the Serious Crime Act 2007 for the imposition of a Serious Crime Prevention order.

STEP NINE

Reasons

Section 174 of the Criminal Justice Act 2003 imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP TEN

Consideration for time spent on bail

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.

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