

Theft from a shop or stall

Theft Act 1968 (section 1)

Triable either way

Maximum: 7 years' custody

(Except for an offence of low-value shoplifting which is treated as a summary only offence in accordance with section 22A of the Magistrates' Courts Act 1980 where the maximum is 6 months' custody.)

Offence range: Discharge – 3 years' custody

STEP ONE**Determining the offence category**

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

The level of culpability is determined by weighing up all the factors of the case to determine the offender's role and the extent to which the offending was planned and the sophistication with which it was carried out.

Culpability demonstrated by one or more of the following:

A - High culpability:

- A leading role where offending is part of a group activity
- Involvement of others through coercion, intimidation or exploitation
- Sophisticated nature of offence/significant planning
- Significant use or threat of force
- Offender subject to a banning order from the relevant store
- Child accompanying offender is actively used to **facilitate** the offence (not merely present when offence is committed)

B - Medium culpability:

- A significant role where offending is part of a group activity
- Some degree of planning involved
- Limited use or threat of force
- All other cases where characteristics for categories A or C are not present

C - Lesser culpability:

- Performed limited function under direction
- Involved through coercion, intimidation or exploitation
- Little or no planning
- Mental disorder/learning disability where linked to commission of the offence

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.

Harm is assessed by reference to the **financial loss** that results from the theft **and any significant additional harm** suffered by the victim or others – examples of additional harm may include but are not limited to: emotional distress, damage to property, effect on business, a greater impact on the victim due to the size of their business, or a particularly vulnerable victim.

Intended loss should be used where actual loss has been prevented.

Harm

| | |
|------------|--|
| Category 1 | High value goods stolen (above £1,000) or Medium value with significant additional harm to the victim or others |
| Category 2 | Medium value goods stolen (£200 to £1,000) and no additional harm or Low value with significant additional harm to the victim or others |
| Category 3 | Low value goods stolen (up to £200) and Little or no significant additional harm to the victim or others |

STEP TWO**Starting point and category range**

Having determined the category at step one, the court should use the starting point to reach a sentence within the appropriate category range in the table below.

The starting point applies to all offenders irrespective of plea or previous convictions.

| Harm | Culpability | | |
|---|---|--|---|
| | A | B | C |
| Category 1 Where the value greatly exceeds £1,000 it may be appropriate to move outside the identified range. Adjustment should be made for any significant additional harm where high value goods are stolen | Starting point 26 weeks' custody Category range 13 weeks'-3 years' custody | Starting point Medium level community order Category range Low level community order -13 weeks' custody | Starting point Band C fine Category range Band B fine- Low level community order |
| Category 2 | Starting point 13 weeks' custody Category range High level community order -26 weeks' custody | Starting point Low level community order Category range Band C fine – Medium level community order | Starting point Band B fine Category range Band A fine –Band C fine |
| Category 3 | Starting point High level community order Category range Low level community order-13 weeks' custody | Starting point Band C fine Category range Band B fine - Low level community order | Starting point Band A fine Category range Discharge –Band B fine |

Consecutive sentences for multiple offences may be appropriate-please refer to the Offences Taken Into Consideration and Totality Definitive Guideline.

[Previous diversionary work with an offender does not preclude the court from considering this type of sentencing option again if appropriate.](#)

Where the offender is dependent on or has a propensity to misuse drugs or alcohol and there is sufficient prospect of success, a community order with a drug rehabilitation requirement under section 209, or an alcohol treatment requirement under section 212 of the Criminal Justice Act 2003 may be a proper alternative to a short or moderate custodial sentence.

Where the offender suffers from a medical condition that is susceptible to treatment but does not warrant detention under a hospital order, a community order with a mental health treatment requirement under section 207 of the Criminal Justice Act 2003 may be a proper alternative to a short or moderate custodial sentence.

The court should then consider further adjustment for any aggravating or mitigating factors. The following is a **non exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the sentence arrived at so far.

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. [Relevant recent convictions may justify an upward adjustment, including outside the category range. In cases involving significant persistent offending, the community and custodial thresholds may be crossed even though the offence may otherwise warrant a lesser sentence.](#)
- Offence committed whilst on bail

Other aggravating factors:

- Stealing goods to order
- [Offence motivated by, or demonstrating hostility based on, characteristics of the victim including, but not limited to, race, age, sex or disability](#)
- Steps taken to prevent the victim reporting or obtaining assistance and/or from assisting or supporting the prosecution
- Attempts to conceal/dispose of evidence
- Offender motivated by intention to seek revenge
- Failure to comply with current court orders
- Offence committed on licence
- Offences taken into consideration
- Established evidence of community/wider impact
- Prevalence - see below

Prevalence

There may be exceptional local circumstances that arise which may lead a court to decide that prevalence should influence sentencing levels. The pivotal issue in such cases will be the harm caused to the community.

It is essential that the court [before taking account of prevalence](#):

- has supporting evidence from an external source, to justify claims that a particular crime is prevalent in their area, **and** is causing particular harm in that community, **and**
- is satisfied that there is a compelling need to treat the offence more seriously than elsewhere.

Deleted: , for example, Community Impact statements,

STEP THREE**Consider any factors which indicate a reduction, such as 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 FOUR**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 FIVE**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 SIX**Confiscation, compensation and ancillary orders**

The court must proceed with a view to making a confiscation order if it is asked to do so by the prosecutor or if the court believes it is appropriate for it to do so.

Where the offence has resulted in loss or damage the court must consider whether to make a compensation order.

If the court makes both a confiscation order and an order for compensation and the court believes the offender will not have sufficient means to satisfy both orders in full, the court must direct that the compensation be paid out of sums recovered under the confiscation order (section 13 of the Proceeds of Crime Act 2002).

The court may also consider whether to make ancillary orders. These may include a deprivation order, or a restitution order.

STEP SEVEN**Reasons**

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

STEP EIGHT

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.

Blank page