

Sentencing Council

Sentencing Council meeting: 17 December 2021
Paper number: SC(21)DEC02 – Burglary Revision
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1 ISSUE

1.1 This is the second meeting to discuss the burglary guideline post consultation. There are two further scheduled meetings to discuss the guideline ahead of sign off of the definitive guideline in March. The guideline will then be published in May and come into force in July. This meeting will focus on looking at responses relating to harm and sentence levels across all three guidelines. Next month we will focus on aggravating and mitigating factors.

2 RECOMMENDATION

2.1 That the Council:

- Considers the responses relating to harm
- Considers the responses relating to sentence levels

3 CONSIDERATION

Harm factors

3.1 There were a number of comments made by respondents about two of the harm factors in non-domestic and domestic burglary, '*much greater emotional impact on the victim than would normally be expected*' in category one, and '*greater emotional impact on the victim than would normally be expected*' in category two (page two of **Annex A**). A number of magistrates, two Crown Court Judges, a barrister, the Criminal Law Solicitors Association (CLSA) the Justice Committee (JC), Prison Reform Trust (PRT) and the Justices' Legal Advisers and Court Officers' Service (JCS) all raised concerns. The concerns were that the factors were too subjective,

and that it would be difficult to assess objectively. The issue was also raised as a concern during road testing, with similar comments made that the terms were highly subjective (page seven of **Annex B.**) Respondents made suggestions for alternative wording.

3.2 Firstly, one magistrates bench suggested that instead of the proposed factors, the harm factors from the aggravated burglary guideline (**Annex C**) should be used instead, so:

- Category one: Substantial physical or psychological injury or other substantial impact on the victim
- Category two: Some physical or psychological injury or some other impact on the victim
- Category three: Limited physical or psychological injury or other limited impact on the victim

However, they suggested that the category three factor should be reworded to: *'a degree of physical or psychological injury or other impact on the victim'*.

3.3 The JCS suggest instead that the factors should be: *'very significant emotional harm based on any factors placed before the court'* and *'significant emotional harm based on any factors placed before the court.'* They do not suggest a category three factor but based on the above text it could be: *'a degree of emotional harm based on any factors placed before the court.'*

3.4 Given that so many respondents raised concerns and the issue was highlighted in road testing it is recommended that the harm factors are reworded. Respondents stressed that all burglaries were distressing for victims, and this was a key factor to get right. As the factors in aggravated burglary are broader than the factors suggested by the JCS which just reference emotional harm, they are perhaps more appropriate.

3.5 Although the harm factors within the aggravating guidelines are broader than the ones in the domestic and non-domestic guideline, the CPS suggest broadening them further, to make it clear that emotional impact may be covered even where it does not amount to psychological injury. This seems a good suggestion, given how important the effect on victims of these offences is. They suggest rewording to:

- Substantial physical or psychological injury or substantial emotional or other impact on the victim

- Some physical or psychological injury or some emotional or other impact on the victim
- Limited physical or psychological injury or limited emotional or other impact on the victim

A version of the non-domestic guideline with all the proposed changes in is attached at **Annex D**.

Question one: Does the Council agree to revise the harm factors in domestic and non-domestic burglary to the revised aggravated burglary harm factors proposed by the CPS?

3.6 A number of concerns were also raised about the '*soiling of property and/or extensive damage or disturbance to property*' category one harm factor and '*ransacking and vandalism*' factor in category two, that there isn't enough distinction between the two. Respondents were clear that soiling must remain in category one.

3.7 The CPS suggest that '*ransacking and vandalism*' be changed to '*some degree of damage or disturbance to the property*', as this would provide a clearer sliding scale between '*limited damage or disturbance*' and '*extensive damage or disturbance*'. They also say that by doing so it would better reflect the level of damage/disturbance intended for category two harm, as the natural meaning of ransacking/vandalism is arguably closer to '*extensive damage or disturbance*' in category one.

3.8 HM Council of District Judges said that the difference between '*extensive damage/disturbance*' and '*ransacking or vandalism*' will not be clear, so the latter should read '*some ransacking and vandalism*' to draw a distinction between that and '*extensive damage/disturbance*'.

3.9 Rory Kelly, an academic also said the factors needed revising to avoid confusion, and proposed:

- Category one: Soiling of property and/or extensive damage or disturbance to property
- Category two: Moderate damage or disturbance to property
- Category three: Limited/no damage or disturbance to property

3.10 The JC also proposed that the category two factor should be '*moderate damage or disturbance to property*'. Given the amount of comments on these factors

it is recommended that they should be revised. The common theme seems to be to change the wording of the ransacking/vandalism category two factor, to either 'moderate' or 'some' damage or disturbance to property. 'Moderate' has also been suggested in reference to rewording the category two harm factor relating to loss (see para 3.11 below) so for consistency moderate may be the better term. The category one factor of *'soiling of property and/or extensive damage or disturbance to property'* would remain unchanged.

Question two: Does the Council agree to reword the category two ransacking/vandalism factor to 'moderate damage or disturbance to property'?

3.11 The Sentencing Academy, the JCS and a magistrate commented on the category two factor of *'theft of/damage to property causing some degree of loss to the victim (whether economic, commercial or personal value'*, stating that 'some' is too loose a description, that there is not much difference between 'some degree of loss' and 'property of low value'. They suggest that 'moderate' instead of 'some' might mark more clearly the difference between 'substantial degree of loss' in category one, and property of low value in category three. To avoid problems with the appropriate categorisation of loss suffered it may be appropriate to reword to 'moderate', especially if 'moderate' is also going to be used in relation to the amount of damage caused. The category one and three factors would be unchanged.

Question three: Does the Council agree to revise the category two harm factor to 'theft of/damage to property causing a moderate degree of loss to the victim (whether economic, commercial or personal)'?

3.12 PRT raised a concern that the draft guideline does not distinguish between when violence is used or threatened against the victim-they are both in category one harm. They suggest that *'violence used against the victim'* remains in category one, but *'violence threatened but not used against the victim'* goes to category two. They also suggest that the category one factor of *'context of public disorder'* is amended to *'context of public disorder (when linked to the commission of the offence)'*. They say without this addition it is unclear what 'context' may be relevant- the defendant could be penalised for public disorder which they had no involvement in or may not be aware of, for example, violence after a football match which had taken place nearby.

Question four: Does the Council wish to differentiate between violence used and violence threatened in the way PRT suggest? Does the Council wish to amend the 'context of public disorder' factor also in the way PRT suggest?

3.13 The CPS commented on the '*victim on the premises (or returns) while offender present*' factor in non-domestic burglary. They suggest that it should be reworded to '*victim on the premises (or returns or otherwise attends) while offender present*'. They state that this would better capture situations where a security guard who would not normally be present attends a warehouse after an alarm was triggered, for example.

3.14 The HM Council of District Judges commented on the '*occupier at home (or returns home) while offender present*' factor in domestic burglary, asking if the person returning home has to be the occupier, as opposed to anyone else who had legitimate access to the property, such as a babysitter, cleaner, etc. They ask if the increased harm is only due to the occupier on the basis they would perceive it as a home invasion, or is the intention also to reflect a victim being confronted by the offender? If it is the latter we could simply reword the factor to '*victim in the dwelling (or returns to the dwelling) while offender present*'.

Question five: Does the Council wish to reword the factor in non-domestic burglary in the way the CPS suggest? Does the Council wish to reword the factor in domestic burglary in the way suggested?

3.15 The Howard League raise a different concern about the '*occupier at home (or returns home)*' while offender present factor in domestic burglary (**Annex E**). They point to the evaluation of the original guideline which found that this was the most common step one factor. They argue that whilst it is obviously very frightening to be present during such an incident, the presence of the occupier should not be in the same harm category as actual violence against a victim, so should be a step two factor.

Question six: Does the Council wish to move the occupier at home factor in domestic burglary to be a category two factor instead?

3.16 English Heritage commented that there should be reference to the loss of cultural or heritage assets resulting from these offences within harm. They state that the harm caused can be high because they are finite, irreplaceable often unique resources¹ that belong to the community, forming part of the nation's history. They point to the harm factor within the theft guideline of '*damage to heritage assets*' and the aggravating factor within criminal damage of '*damage caused to heritage and/or cultural assets.*' They request that the guideline specifically includes a harm factor of'

¹ E.g Set of gold rosary beads carried by Queen Mary of Scots at her execution stolen in a burglary.

'Loss or damage caused to heritage and/or cultural assets.' However if the Council do not want this factor at step two it could be a step two aggravating factor.

Question seven: Does the Council wish to add a harm factor relating to loss of heritage/cultural assets? Or as an aggravating factor?

3.17 The Chief Magistrate commented that violence or confrontation with the occupier should be the first item within the list of harm factors, since despite the lack of precedence human instinct is to consider the first items in a list as more important. The items could be reordered so that the first and third factor exchange places, so the 'violence used' factor appears first in the list.

Question eight: Does the Council wish to reorder the list of harm factors?

Wording on Drug Rehabilitation Requirements (DRRs) and Alcohol Treatment requirements (ATRs)

3.18 The non- domestic and domestic burglary guidelines contained wording above the sentence table stating that DRR's/ATR's may be a proper alternative to a short or moderate custodial sentence (page 3 of **Annex A**). The original guideline just referenced DRR's, the Council added in ATR's in recognition of the proportion of offences where alcohol is a factor. In road testing the wording was found to be clear and useable. The additional wording on ATR's was not opposed but some judges stated they would need to be persuaded to apply this in domestic burglary cases or would need evidence that addiction was the root cause of the offending.

3.19 Just over half of the respondents that answered the question agreed with this proposed wording, these respondents included the CPS, Council of HM Circuit Judges and HM Council of District Judges. The JC agreed with the wording but suggested that the Council undertakes research to determine the extent that the inclusion of such wording changes the approach of sentencers. The rest offered a mixed response, one magistrate said the wording was patronising and over-prescriptive, another thought the wording was too vague. The Chief Magistrate and Magistrates Association (MA) thought there should be a link to the Imposition guideline instead. Given that there was broad approval for the inclusion of the wording it is recommended that it remains unaltered in the guideline

Question 9: Does the Council agree that the wording should remain unaltered?

Sentence levels- non- domestic burglary

3.20 The proposed sentence levels (page three of **Annex A**) were based on current sentencing practice. The proposals were met generally with broad approval.

Of those that questioned the ranges, two magistrates thought they were too low, and two Crown Court Judges thought sentencing for more serious cases should be closer to the maximum of 10 years, perhaps six years instead of five in A1, and that the starting point doesn't have to be in the middle of the range. The Chief Magistrate queried having discharge at the bottom of the range in C3, stating that it should remain a requirement that reasons are given for passing such a lenient sentence for a serious offence. Also, that when compared to the sentences for going equipped, a preparatory offence, the sentences in this guideline are too low, the lowest starting point in going equipped is a Band C fine, compared to a Band B fine in this guideline.

3.21 The MA by contrast thought the ranges were an increase on the levels in the existing guideline and queried whether this was intentional. Both the JC and JCS commented on the gap between the starting points of C1 and C2, saying there was too big a gap between a medium level community order and 6 months' custody, and suggested that the top of the range in C2 should be a high level community order instead. Changing this would necessitate increasing the top of the range to 6 months' custody and making the same changes to B3.

3.22 In road testing, sentencers were happy with the proposed levels. Sentencing data for 2020 for this offence is shown on tabs 1.1-1.4 of **Annex F**. The ACSL is 10.6 months, 74 per cent of offenders receive sentences of one year or less, and only 1 per cent receive sentences above 5 years, the top of the range. Therefore, it is not recommended that the top of the range is increased from 5 years.

Question 10: Does the Council agree the top of the range should remain at 5 years?

3.23 However, the Council may like to close the gap between the starting points of C1 and C2, so that the starting point of C2 and B3 becomes a high level community order, with the top of the range increasing to 6 months. As only 2 per cent of offenders receive discharges and 3 per cent receive fines, the Council may wish to act on the comments by the Chief Magistrate and increase the starting point in C3 to a medium level community order, increase the bottom of the range to a band B fine and the top to a high level community order. Doing so would mean the range is higher than the equivalent in going equipped and is closer to the range in the existing guideline.

Question 11: Does the Council wish to increase the starting points of C2 and B3 to a high level community order and the top of the range to 6 months custody? Does the Council wish to increase the starting point of C3 to a

medium level community order, the bottom of the range to a band B fine and the top of the range to a high level community order?

Domestic burglary- Annex E

3.24 The consultation asked for views on the wording '*for cases of particular gravity, sentences above the top of the range may be appropriate*', which appears directly above the sentence table. Of those that responded, most agreed with the proposed wording. Of those that disagreed, one Judge and a magistrate said it was no substitute for increasing the starting points/ranges. The CPS pointed out that Judges can already depart from guidelines if necessary, and that either the wording should be included in all guidelines, or not at all, to avoid a suggestion that some sentences above the ranges are more appropriate for some offences than others. This view was also echoed by a magistrate. This wording was found to be clear and useable during road testing.

3.25 PRT said that it would be necessary to explicitly outline what 'particular gravity' meant, or, reword to 'cases of exceptional gravity'. A Judge said it should be reworded to say that '*where multiple features of harm/culpability are present, it is likely that a sentence outside of the range will be appropriate*'.

3.26 The Sentencing Academy did not agree with including this wording, says courts could already go above the top of the range if necessary, it risked sentence inflation, and it singled out domestic burglary for special treatment. Also, that there is no reference to the statutory test for departing from the range, as laid down by s.59 of the Sentencing Act 2020, which is much tighter than the proposed wording of 'may be appropriate', so is directing courts to ignore the statute. The JC also made the same point and said that the wording should refer to the statutory test.

3.27 A decision on whether to retain this wording or not, and if it is to be retained, whether to reword it or not, is closely linked to consideration of responses on the sentence levels for this offence, the discussion which is below. Therefore, it may be practical to consider the sentences levels and this wording in the round and make decisions at the end of that discussion.

Proposed sentence levels- domestic burglary

3.28 The proposed levels (page three of **Annex E**) were based on current sentencing practice. Most respondents generally agreed with the proposals, with a small number saying they thought the levels were too low. A Judge commented that all the starting points and ranges were too low, and that he believed most Judges

thought this, and that the reason why only 2 per cent of cases went above the top of the existing range was due to fear of the case being appealed if they sentenced above the range, which they may have wished to. Another judge and a magistrate bench thought the starting point for A1 was far too low, that it should be far closer to the statutory maximum. The JC also queried the large gap between the top of the range and the statutory maximum. The Judge thought the starting point should be nearer six years in a range of three - nine years. A barrister also said that the starting point in A1 was too low at three years, and it would lead to too many suspended sentences being given.

3.29 Another magistrate thought that all the sentences should be increased by one level. The JC thought the gap between the starting points in C2 and C3 was too great, at 1 year's custody and a high level community order, they suggested that the starting point in C3 should be six months' custody to reflect the seriousness of domestic burglary. If this is done the top of the range would need to increase to 1 year's custody. The Council of Circuit Judges thought the ranges were too low, but with the additional wording above the table 'for cases of particular gravity' etc, it works. In contrast, PRT thought there should be more community orders available within the table, and the MA queried the ranges in A3/B2/C1, saying that they were higher than the equivalent in [the existing guideline](#), and asked if this was deliberate.

3.30 In road testing, a number of Judges felt from past experience that the area was under sentenced, and felt the proposed levels were too low, especially in A1. Alternative ranges of three to ten years with a starting point of four years, and four to eight years with a starting point of five years were suggested. The sentencing data for 2020 is on tabs 2.1 to 2.4 of **Annex F**. The ACSL is two years four months, 91 per cent of offenders received sentences of four years or less, and only 2 per cent received sentences above six years.

Question 12: Does the Council wish to increase the range or starting point in A1?

Question 13: Does the Council wish to increase the starting point in C3 as the JC suggest, and increase the top of the range to a years' custody?

Question 14: Does the Council wish to retain the wording re cases of particular gravity? If so, should it be reworded at all?

Aggravated burglary

3.31 The proposed sentence levels (page three of **Annex C**) were again based on current sentencing practice. Of those that answered the question, the vast majority of respondents agreed with the proposals, with just one Judge saying he thought the levels were too low and the starting point should be closer to the top of the range. In road testing, the majority of the Judges were comfortable with the proposed sentence levels. The sentencing data for 2020 is on tabs 3.1 to 3.4 of **Annex F**. The ACSL is seven years two months, 89 per cent of offenders received sentences of ten years or less, and only 2 per cent received a sentence above 12 years. Therefore, it is proposed that the sentence ranges remain unchanged.

Question 15: Does the Council agree that the sentence levels for this offence should remain unchanged?

4. EQUALITIES

4.1 An update on some further analysis on any possible racial disparities that has been carried out will be discussed in next month's paper, when the available demographic data will also be provided.

Annex A

(Consultation version)

Non-domestic burglary

Theft Act 1968 (section 9)

Triable either way (except as noted below)

Maximum: 10 years' custody

Offence range: Discharge – five years' custody

This is a specified offence for the purposes of sections [266](#) and [279](#) (extended sentence for certain violent, sexual or terrorism offences) of the Sentencing Code if it was committed with intent to:

- a. inflict grievous bodily harm on a person, or
- b. do unlawful damage to a building or anything in it.

This offence is **indictable only** where it is a burglary comprising the commission of, or an intention to commit, an offence which is triable only on indictment.

STEP ONE

Determining the offence category

The court should determine the offence category with reference only to the factors in the table 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. **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**

| Culpability demonstrated by one or more of the following: | |
|--|--|
| A- High Culpability | <ul style="list-style-type: none">• A significant degree of planning or organisation• Knife or other weapon carried (<u>see step 6 on totality when sentencing more than one offence</u>) |
| B- Medium culpability | <ul style="list-style-type: none">• Some degree of planning or organisation• Equipped for burglary (where not in high culpability)• Other cases that fall between categories A and C because:<ul style="list-style-type: none">○ Factors are present in A and C which balance each other out and/or○ The offender's culpability falls between the factors described in A and C |
| C- Lower culpability | <ul style="list-style-type: none">• Offence committed on impulse, with limited intrusion into property• Involved through coercion, intimidation or exploitation• Mental disorder or learning disability, where linked to the commission of the offence |

Harm

The level of harm is assessed by weighing up all the factors of the case

| | |
|------------|---|
| Category 1 | <ul style="list-style-type: none">• Much greater emotional impact on the victim than would normally be expected• Victim on the premises (or returns) while offender present• Violence used or threatened against the victim• Theft of/damage to property causing a substantial degree of loss to the victim (whether economic, commercial or personal value)• Soiling of property and/or extensive damage or disturbance to property• Context of public disorder |
| Category 2 | <ul style="list-style-type: none">• Greater emotional impact on the victim than would normally be expected• Theft of/damage to property causing some degree of loss to the victim (whether economic, commercial or personal value) |

| | |
|------------|--|
| | <ul style="list-style-type: none"> Ransacking or vandalism of the property |
| Category 3 | <ul style="list-style-type: none"> Nothing stolen or only property of low value to the victim (whether economic, commercial or personal) Limited damage or disturbance to property |

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 all offenders irrespective of plea or previous conditions

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 [part 10](#), or an alcohol treatment requirement under [part 11](#), of Schedule 9 of the Sentencing Code may be a proper alternative to a short or moderate custodial sentence.

| Harm | Culpability | | |
|-------------------|---|---|---|
| | A | B | C |
| Category 1 | Starting Point 2 years' custody Category Range 1 -5 years' custody | Starting Point 1 years' custody Category Range High level community order - 2 years' custody | Starting Point 6 months custody Category Range Medium level community order – 1 years' custody |
| Category 2 | Starting Point 1 years' custody Category Range High level community order - 2 years' custody | Starting Point 6 months custody Category Range Medium level community order – 1 years' custody | Starting Point Medium level community order Category Range Low -high level community order |
| Category 3 | Starting Point 6 months custody Category Range Medium level community order - 1 years' custody | Starting Point Medium level community order Category Range Low – high level community | Starting Point Band B fine Category Range Discharge – Low level community order |

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any 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
- Offence committed whilst on bail
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors:

- Abuse of a position of trust
- Restraint, detention or additional gratuitous degradation of the victim
- Vulnerable victim
- Offence was committed as part of a group
- Offences taken into consideration
- Any steps taken to prevent the victim reporting the incident or obtaining assistance and/or from assisting or supporting the prosecution
- Offence committed on licence or post sentence supervision or while subject to court order(s)
- Commission of offence whilst under the influence of alcohol or drugs
- Established evidence of community impact

Factors reducing seriousness or reflecting personal mitigation

- Offender has made voluntary reparation to the victim
- The offender was in a lesser or subordinate role if acting with others/performed limited role under direction
- No previous convictions **or** no relevant/recent convictions
- Remorse
- Good character and/or exemplary conduct
- Determination, and/or demonstration of steps taken to address addiction or offending behaviour
- Physical disability or serious medical conditions requiring urgent, intensive or long-term treatment
- Mental disorder or learning disability, where not linked to the commission of the offence
- Age and/or lack of maturity
- Delay since apprehension
- Sole or primary carer for dependent relatives

STEP THREE

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

The court should take into account [section 74 of the Sentencing Code](#) (reduction in sentence for assistance to prosecution) 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 73 of the Sentencing Code](#) and the *Reduction in Sentence for a Guilty Plea* guideline.

STEP FIVE

Dangerousness

A burglary offence under section 9 Theft Act 1968 is a specified offence if it was committed with the intent to (a) inflict grievous bodily harm on a person, or (b) do unlawful damage to a building or anything in it. The court should consider whether having regard to the criteria contained [section 308 of the Sentencing Code](#) it would be appropriate to impose an extended sentence (sections [266](#) and [279](#)).

STEP SIX

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 in accordance with the Totality guideline.

STEP SEVEN

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders. The court must give reasons if it decides not to order compensation ([Sentencing Code, s.55](#)).

- [Ancillary orders – Magistrates' Court](#)
- [Ancillary orders – Crown Court Compendium](#)

STEP EIGHT

Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP NINE

Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and [section 325 of the Sentencing Code](#).

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Road testing with Crown Court judges and magistrates: Domestic, Non-domestic and Aggravated burglary

Introduction

The current burglary guidelines were published by the Council in January 2012. At this time, the resource assessment did not predict any impact on prison and probation services. However, when reviewed in 2016, the initial assessment indicated that since the guidelines had come into force, sentencing severity had increased for domestic (s.9), non-domestic (s.9) and aggravated burglary (s.10). Further research indicated that the increase in sentence severity for non-domestic burglary in the magistrates' court and Crown Court, could be attributable to the guideline, though for domestic burglary this appeared to be part of a longer-term trend rather than resulting from the guideline. Due to low volumes of cases of aggravated burglary, it was not possible to conclude if this increase was caused by the implementation of the guideline.

Alongside amendments to some factors, as outlined below, the draft guidelines update the existing guidelines to reflect the stepped approach used in more recent guidelines produced by the Council and introduces new medium levels of culpability/harm. Therefore, research was needed to understand how amendments to the structure of the guideline, and changes to factors could impact sentencing practice; and to ensure the draft guidelines are clear and usable. As they were new elements to the guidelines, particular attention was paid to the following elements of the draft guidelines to understand:

Domestic burglary: How sentencers interpreted guidance on the application of flexibility regarding cases of particular gravity and whether guidance wording in relation to imposing community orders with drug or alcohol treatment requirements is clear.

Non-domestic burglary: What, if any, are the issues being seen by magistrates when sentencing cases of non-domestic burglary, that could contribute to the increase in sentence severity in this court.

Aggravated burglary: How sentencers applied new guidance on carrying a weapon on entry of the premises as an aggravating factor as compared with a factor used in assessing culpability.

Methodology

Twenty-one interviews were conducted, consisting of nine magistrates and twelve Crown Court judges. Participants were selected by random sample from the Council's research pool. Qualitative interviews were conducted via MS Teams with sentencers from across England and Wales. Judges considered three scenarios (summarised below) and magistrates, two, relating to the Non-domestic burglary guideline only. Participants received the draft guidelines a week prior to the interview and sentenced each scenario twice, using the draft and existing guidelines.

| Scenario | Summary of scenario |
|------------------|--|
| A – Domestic | <p>K, with another defendant, broke into a home of an elderly couple at night by smashing glass in the back door. The resident confronted K who threatened him with a screwdriver. Keys, a wallet, jewellery and a brand new Motability car valued at £23,000 were stolen. The couple felt violated and felt they had to install extra security measures to make them feel safe.</p> <p>CCTV captured the defendant approaching the property, alongside the number plate of the vehicle, with his hood up partially obscuring his face, using a torch and holding a screwdriver. CCTV from the day before captured K loitering outside the house, peering through the window.</p> <p>The court heard that K had been on a burglary expedition that evening, with two other attempted burglaries taking place nearby (subject to separate charges), both of which were foiled by passers-by. K was convicted after trial. He has over 100 previous convictions for theft, burglary and robbery and was out on licence at the time of the offence.</p> |
| B – Domestic | <p>A, 21, entered a home through an open ground floor window during the afternoon. He had been drinking for most of the day and needed money to buy alcohol, which led to the offence. He was disturbed by the victim, who found him in the living room, going through her handbag but left emptyhanded. He pleaded guilty at the first opportunity and has one previous conviction for domestic burglary. The pre-sentence report detailed that he has had a troubled background and suffered a trauma which led to him having problems with alcohol addiction. He is now willing to accept he has an alcohol problem and wants to tackle it. The victim was very upset and scared by the incident, leaving her anxious about security and being at home on her own.</p> |
| C – Aggravated | <p>R, 21, forced his way into a convenience store, along with two others, just as it was closing for the night and the shutters were being rolled down. R was carrying a machete which he used to force the shutters back up. Two staff members had seen this on CCTV and retreated to a locked back room and called the police. R and the others emptied the tills and contents of the cigarette store into bags they had brought with them for that purpose. Police came in time to apprehend them.</p> <p>Damage was done to the shutters, costing around £500 to repair. R pleaded guilty at the first opportunity. He has two previous unrelated convictions. The victim impact statements said they were terrified in the incident.</p> |
| D - Non-domestic | <p>W, 50, stole a handbag from behind a reception desk at a local hospital whilst there for an appointment. The receptionist was in the back room. The handbag (an expensive one) contained a purse with £70 cash, bank cards and the victim's driving licence and the only copy of an assignment for the receptionist's college course. The bag was found in a nearby alleyway, minus the cash, cards and licence. The handbag and assignment were ruined by heavy rain. W pleaded guilty at the first opportunity. He had many previous convictions for dishonesty. The victim was upset by what had happened and had the inconvenience of having to cancel all her cards, wait for new ones, and apply for a new licence. She was also upset by the loss of the handbag (a 21st Birthday gift).</p> |
| E – Non-domestic | <p>P, aged 29, and a friend who had been drinking most of the day, broke into an office on a new housing development. They vandalised some of the walls, damaged some furnishings, and broke a window. P said he committed the offence on impulse whilst walking past on the way home. He has one unrelated previous conviction and pleaded guilty at the first possible opportunity.</p> |

Key Points

- The guidelines road tested well, and judges and magistrates found the draft guidelines clear and usable. The update to the stepped approach was highly favoured across each of the draft guidelines, especially three levels of culpability and harm.
- Under the s.9 Domestic and Non-domestic draft guidelines, a theme of concern arose surrounding assessment of two harm factors: ‘much greater emotional impact on the victim than would normally be expected’ and ‘greater emotional impact on the victim than would normally be expected’. Multiple sentencers thought this to be highly subjective and thought the harm categories lacked a position for a normal level of emotional impact.
- One scenario (A – Domestic burglary) was sentenced consistently across the draft and existing guidelines and between judges. Sentences for scenarios B-E remained largely consistent between the draft and existing guidelines however, varied depending on sentencer. For the most part, the differences are small.¹
- Domestic burglary: Additional wording relating to cases of particular gravity was found to be clear and usable. Additional wording on Alcohol Treatment Requirements (ATR) as an alternative to short or moderate custodial sentences was not opposed although some judges stated they would have to be persuaded to apply this in the case of domestic burglary or they would need evidence that addiction was the root cause of the offending behaviour.
- Aggravated burglary: On the whole, there was not opposition to the movement of the ‘weapon carried when entering premises’ from a factor of culpability to an aggravating factor. Five of the nine judges that considered the Aggravated burglary scenario (C), applied this factor under aggravation, hence double counting the factor, and two judges applied it at step one. One did so on the basis that it may need to be taken into account when considering taking the sentence outside of the guideline and the other was initially undecided on harm categories, but focused on the weapon element of the harm factor: ‘Violence used or threatened against the victim, particularly involving a weapon’, and thought the carrying of the machete to be applicable to the factor. When reading the aggravating factor of ‘weapon carried when entering premises’, they said ‘that effectively confirms it’s category one [harm]’.
- Magistrates reported they had not perceived changes to the types of non-domestic burglary cases seen in court and there were no particular difficulties in sentencing non-domestic burglaries.

¹ A breakdown of the sentences can be seen at the end of this document.

s.9 Domestic burglary

Scenario A (s.9 Domestic burglary)

Sentencing as expected by policy:

In Scenario A, the offender was expected to be placed in Category 1A, with a 3 year starting point. The sentence could go above the top of the range, because it was a case of particular gravity, leading to a sentence of above 6 years.

- Eight of the nine judges assessed Scenario A, relating to Domestic burglary to be category A1 as expected. Due to uncertainty surrounding if the screwdriver would constitute a weapon, one judge assessed this as B1. Five of the nine judges applied the wording 'for cases of particular gravity, sentences above the top of the range may be appropriate' and their final sentences ranged from 7-9 years. The four remaining sentences ranged between three and a half and six years.
 - It was agreed the wording was clear and workable.
 - To emphasise the additional wording, it was suggested this wording be highlighted or put in larger type.
- A point to note in relevance to the Domestic and Non-domestic draft guidelines is the assessment of 'much greater' or 'greater emotional harm than is normally expected'. Multiple judges and magistrates expressed concern about this element and felt this was highly subjective. One judge commented there was no categorisation of emotional impact on the victim that was not more than would normally be expected. They therefore felt the guideline would exclude a case of what would be thought to be a 'normal' level of emotional impact as this would automatically be assigned to a category three, which was thought to be too low to reflect the impact on victims. However, this did not appear to produce inconsistencies in the assessment of harm.

Scenario B (s.9 Domestic burglary)

Sentencing as expected by policy:

In Scenario B, the offender was expected to be placed in Category B1, with a starting point of 2 years and then a reduction for guilty plea. A community order with an alcohol treatment requirement may be a proper alternative to a short of moderate custodial sentence.

Two of the nine judges categorised Scenario B, relating to Domestic burglary, as B1 as expected. Three assessed it to be C1, three C2 and one B2. Five judges imposed suspended sentence orders (SSO) ranging between six months and one year and two months. Eight imposed custodial sentences ranging from one year to two years and six months. One judge did not state their sentence pre and post-guilty plea and imposed a suspended sentence of 6 months with an ATR and unpaid work.

- Those who assessed culpability to be category B (as expected) agreed that the offence was committed on impulse, but that there was more than 'limited intrusion'.

Those who assessed it as category C said there was limited intrusion, and some pointed out that there was no targeting in the case.

- Those categorising the offender under high harm (as expected) agreed this was due to the occupier being present. Those who assessed harm as category two agreed on the factor of the victim being present, but balanced this with the fact nothing was stolen.
- The wording in relation to imposing community orders with drug or alcohol treatment requirements was generally accepted, with judges saying they would be applied if alcohol was the root cause of the offending behaviour. However, two judges said they would need '*some persuasion*' that it would be an appropriate sentence for Domestic burglary. Another judge said they would be hesitant to impose non-custodial penalties due to this area being 'under sentenced': "*The impact on some of this sort of thing is just enormous, and to the extent that deterrence works for those who are inclined to commit offences, which is, I think very much in doubt, but to the extent it does work, they need to know that if you break into someone's house, you're going in.*"
- Participants were positive about the guideline and liked the flexibility of the stepped approach. Concerns were raised on the assessment of the '*normally expected*' emotional impact on victims included within the harm categorisation. Additional wording relating to cases of particular gravity was found to be clear and usable.
- Judges were happy with the culpability under the Domestic burglary guideline and favoured the addition of the third category of culpability, which was thought to give more flexibility and scope to analyse the case in a more critical and detailed way. '*The guidelines really identify the factors that touch upon culpability and harm.*'
- Aggravating and mitigating factors were widely accepted. One comment was made, suggesting the factors relating to the offence itself should be grouped together, followed by the remaining factors.

s.10 Aggravated burglary

Scenario C (s.10 Aggravated burglary)

Sentencing as expected by policy:

In Scenario C, the offender was expected to be placed in category B2 with a starting point of 6 years, with an increase within the range for aggravating factors.

- Four judges placed the offender in culpability A and five judges in culpability B. Those placing the offender in the higher category did so on the basis of a significant degree of planning and targeting of a vulnerable victim. Those placing the offender in category B did so on the basis of some degree of planning or organisation.
- Six judges assessed harm to be category one and three as category two. Those placing the offender in category one did so on the basis of the presence of the victim, trauma to the victim and a significant degree of loss. Those placing the offender in category two did so on the basis of some degree of loss and psychological impact to the victim.
- Five of nine judges applied the factor 'weapon carried when entering premises' under Step 2, double counting, and two applied the factor under Step 1. Of the two,

one did so on the basis that the factor should remain in culpability as, 'it might be the fact that you feel it should be taken into account when taking it outside of the guideline.' The other judge was initially undecided between harm categories one and two but focused on the weapon element of the harm factor: *'Violence used or threatened against the victim, particularly involving a weapon'*, and thought the carrying of the machete to be applicable to the factor. When reading the aggravating factor of *'weapon carried when entering premises'*, they said *'that effectively confirms it's category one [harm]'*.

- Judges imposed custodial sentences ranging from six to ten years.
- The guideline was well received and sentencers were in favour of the stepped approach. On the whole, there was not opposition to the movement of the factor *'weapon carried when entering premises'* from a factor of culpability to an aggravating factor. However, some clarification was called for on the wording and whether the weapon need be visible or concealed.
- Under Scenario C, no judges made an increase in their imposed sentence using the draft guideline in comparison to that using the existing guidelines. Five judges imposed sentences that were less than that under the existing guideline, the decreases range between one (three judges) and three years (one judge). One judge made a decrease of a year and a half.
- It was noted that the addition of the middle category was helpful to have in terms of starting points: *'It's a very useful area and there's a nice degree of overlap as well between the ranges with different categories, which is always good to see because it enables you to finesse things more than if the guideline categories were hard edged between the different brackets'*.
- There were no points to note on aggravating or mitigating factors. One judge commended the Council on the addition of the factor *'Offence committed in a dwelling'* – *'I think that's a very useful addition to reflect in the new guideline that isn't present in the old [existing] one.'*

s.9 Non-domestic burglary

Scenario D (s.9 Non-domestic burglary)

Sentencing as expected by policy:

In Scenario D, the offender was expected to be placed in category C1 with a starting point of 6 months, aggravated by previous convictions to around 1 year. Reduced to around 6 months following guilty plea.

- Nine judges and nine magistrates were asked to sentence scenario D. Thirteen judges and magistrates assessed Scenario D (Non-domestic burglary) to be category C2, three C1 (as expected), one B2 and one C1 or 2. Those categorising harm to be level two, did so on the basis of the factors of *'some degree of loss'*, *'greater emotional impact than expected'*, *'soiling of property'* and *'victim on premises'*.
- Sentences imposed by judges ranged from a Community Order to 8 months custody. Pre-GP sentences by magistrates ranged from Medium-Level Community Order to six months custody. Five judges' sentences remained consistent across the existing and draft guidelines and two of the magistrates sentences remained consistent.

- Two judges made increases of two months to their sentences using the draft guideline. Three magistrates made increases using the draft guideline. Two increased their sentence by one and a half months and one increased from a high-level community order to six months custody. One judge and three magistrates made a decrease using the draft guideline, all of which reduced a custodial sentence to community orders.

Scenario E (s.9 Non-domestic burglary)

Sentencing as expected by policy:

In Scenario E, the offender was expected to be placed in category C2 with a starting point of a medium-level community order. This could be aggravated to a high-level community order however, credit for a guilty plea could reduce the sentence back to a medium-level community order.

- Four of nine magistrates assessed Scenario E (Non-domestic burglary) to be category C2 as expected, four as B2, and one as C3. Those categorising under category C based the decision on the factor of the offence being committed on impulse with limited intrusion. Three of four of those under category B based this on the offence committed on impulse but with more than limited intrusion.
- Most (8 of 9) magistrates assessed harm to be category 2 based on 'some degree of loss' and 'ransacking or vandalism'. One magistrate categorised the scenario as category 3 and alongside 'some degree of loss', applied the factor of 'nothing stolen'.
- Sentences included Band B fine (2), medium-level community order (4) and 6 months custody (4). Four magistrates imposed a higher sentence using the draft guideline. Increases range from one and a half months to four months. One magistrate increased their sentence from a low-level community order to six months custody. Four magistrates sentences remained consistent and one made a decrease from four and a half months custody to a MLCO.

Comments on the s.9 Non-domestic burglary guideline:

- It was generally thought the guideline worked well and was relatively easy to follow. A point to note in relevance to the Domestic and Non-domestic draft guidelines is the assessment 'much greater' or 'greater emotional harm than is normally expected'. It was felt this was highly subjective. One judge commented there was no categorisation of emotional impact on the victim that was not more than would normally be expected. They therefore felt the guideline would exclude a case of what would be thought to be a 'normal' level of emotional impact as this would automatically be assigned to a category three, which was thought to be too low to reflect the impact on victims.
- Other than the above note on emotional impact, most judges and magistrates were happy with the three levels of harm and culpability and felt that there was a greater range of factors 'which fit better with the nuanced nature of the offence'.
- One magistrate thought the draft guideline to be pitched at a better starting point than the existing Non-domestic burglary guideline.
- There were no objections to aggravating or mitigating factors.

- Magistrates reported they had not perceived changes to the types of non-domestic burglary cases seen in court and there were no particular difficulties in sentencing non-domestic burglaries.

Scenario A – Domestic burglary

| Existing guideline | | Draft guideline | | | | | | | | | |
|--------------------|------------|------------------------|-------------|--|---|--|---|--|---|------------------------|-----------|
| | SP (years) | Final sentence (years) | Culpability | Factors | Harm | Factors | SP (years) | Aggravating factors | Mitigating factors | Final sentence (years) | |
| Expected | | | A | <ul style="list-style-type: none"> • Targeting of vulnerable victims • Significant degree of planning • Other weapon carried • Equipped for burglary | 1 | <ul style="list-style-type: none"> • Occupier at home • Violence used or threatened against the victim • Substantial degree of loss | 3 | <ul style="list-style-type: none"> • Previous convictions • Offence committed at night • Vulnerable victim(s) • Offence committed as part of a group • Offence committed on licence | None | Above 6 years | |
| | 1 | 3.5 years | 3.5 years | A | <ul style="list-style-type: none"> • Targeting of vulnerable victim • <i>Threat of violence**</i> | 1 | <ul style="list-style-type: none"> • Occupier at home • Economic loss to victim | 3.5 years* | <ul style="list-style-type: none"> • Previous convictions • Offence committed as part of a group • Offence committed on licence | None | 3.5 years |
| | 2 | 4.5 years | 6 years | A | <ul style="list-style-type: none"> • Targeting of vulnerable victim • Significant degree of planning | 1 | <ul style="list-style-type: none"> • Occupier at home • Violence or threatened against victim | 6 years | <ul style="list-style-type: none"> • Previous convictions • Offence committed at night • Offence committed as part of a group • Steps taken to prevent the victim reporting • Offence committed on licence | None | 7 years |
| | 3 | 3 years | 6 years | B | <ul style="list-style-type: none"> • Culpability falls between A and C • <i>Other weapon carried?</i> | 1 | <ul style="list-style-type: none"> • Occupier at home • Violence threatened against victim | 3 years | <ul style="list-style-type: none"> • Previous convictions • Offence committed at night • Offence was committed as part of a group • Steps taken to prevent the victim reporting • Offence committed on licence • <i>Other offending</i> | None | 6 years |
| | 4 | 3 years | 7 years | A | <ul style="list-style-type: none"> • Significant degree of planning • Other weapon carried | 1 | <ul style="list-style-type: none"> • emotional impact • Occupier at home • Violence threatened against victim • Substantial degree of loss | 3 years | <ul style="list-style-type: none"> • Offence committed at night • Offence committed as part of a group • Offence committed on licence • <i>Serious consequences for the victims</i> | None | 7 years |
| | 5 | 6 years | 6-8 years | A | <ul style="list-style-type: none"> • Significant degree of planning • Equipped for burglary | 1 | <ul style="list-style-type: none"> • Substantial degree of loss • <i>Age of victims</i> • <i>Significant impact on the victims</i> • <i>Violation</i> | 6 years | <ul style="list-style-type: none"> • Previous convictions • Offence committed at night • Offence committed on licence • <i>Homeowner present</i> • <i>Value of property stolen</i> | None | 6-8 years |

| | | | | | | | | | | |
|---|-----------|-----------|---|---|---|---|---------|---|------|-------------|
| | | | | | | | | • <i>Evidence of bad character</i> | | |
| 6 | 6 years | 9 years | A | <ul style="list-style-type: none"> • Degree of planning • Other weapon carried | 1 | <ul style="list-style-type: none"> • Much greater emotional impact than expected • Occupier at home • Violence threatened against victim • Substantial degree of loss | 6 years | <ul style="list-style-type: none"> • Previous convictions • Offence committed at night • Vulnerable victim • Offence committed as part of a group • Offence committed on licence | None | 9 years |
| 7 | 3 years | 4.5 years | A | <ul style="list-style-type: none"> • Planning • Other weapon carried | 1 | <ul style="list-style-type: none"> • Greater emotional impact than expected • Occupier at home • Violence threatened against victim • Substantial degree of loss | 3 years | <ul style="list-style-type: none"> • Previous convictions • Offence committed at night • Offence committed on licence | None | 4.5-5 years |
| 8 | 5-6 years | 5-6 years | A | <ul style="list-style-type: none"> • Targeting of vulnerable victims • Other weapon carried • Some degree of planning • Equipped for burglary | 1 | <ul style="list-style-type: none"> • Occupier at home • Violence threatened against victim • Substantial degree of loss | 3 years | <ul style="list-style-type: none"> • Previous convictions • Offence committed at night • Vulnerable victim • Offence committed as part of a group • <i>Threatening</i> | None | 5-6 years |
| 9 | 3 years | 8 years | A | <ul style="list-style-type: none"> • Significant degree of planning | 1 | <ul style="list-style-type: none"> • Emotional impact • Occupier at home • Violence threatened against victim • <i>Significant</i> substantial loss | 3 years | <ul style="list-style-type: none"> • Offence committed at night • Vulnerable victim • Offence committed as part of a group • Offence committed on licence | None | 8 years |

* raised from 3 years to reflect previous convictions.

** a harm factor but applied in culpability

Scenario B – Domestic burglary

| Existing guideline | | | Draft guideline | | | | | | | | |
|--------------------|-----------------------|------------------------------------|-----------------|--|----------|--|-----------------------|--|---|-------------------|---|
| | SP (years and months) | Pre-GP sentence (years and months) | Culpability | Factors | Harm | Factors | SP (years and months) | Aggravating | Mitigating | Pre – GP sentence | Final sentence, Post-GP (years) |
| Expected | | | B | <ul style="list-style-type: none"> Some degree of planning | 1 | <ul style="list-style-type: none"> Occupier at home Confrontation | 2 years | <ul style="list-style-type: none"> Previous conviction Commission of offence whilst under the influence of alcohol | <ul style="list-style-type: none"> Determination to address addiction Age | 2 years | Around 1 or CO with an ATR |
| 1 | 1 year | 1 year | B | <ul style="list-style-type: none"> Committed on impulse | 1 | <ul style="list-style-type: none"> Occupier at home Nothing stolen | 1 year, 9 months | <ul style="list-style-type: none"> Commission of offence whilst under the influence of alcohol | <ul style="list-style-type: none"> Determination to address addiction Age and/or lack of maturity | 1 year 9 months | 1 year 2 months susp. 2 years |
| 2 | 1 year | 1 year | C | <ul style="list-style-type: none"> No targeting not equipped | 1 | <ul style="list-style-type: none"> Occupier at home | 6 months | - | - | - | 6 months susp. 1 year (ATR/UPW) |
| 3 | 1 year | 10-13 months | C | - | 2 | <ul style="list-style-type: none"> Occupier at home | 1 year | <ul style="list-style-type: none"> Previous conviction Commission of offence whilst under the influence of alcohol | <ul style="list-style-type: none"> Determination to address addiction Age and/or lack of maturity | 1 year 3 months | 10 months |
| 4 | 1 year | 1 year | C | <ul style="list-style-type: none"> Committed on impulse No targeting | 2 | <ul style="list-style-type: none"> Occupier at home Property of low value stolen | 1 year | - | <ul style="list-style-type: none"> Determination to address addiction origins of problem guilty plea | 1 year | 8 months susp. 2 years (RAR/UPW/curfew) |
| 5 | 1 year | 8 months susp. 2 years (ATR) | C | <ul style="list-style-type: none"> Committed on impulse with limited intrusion. | 1 | <ul style="list-style-type: none"> Occupier at home Greater degree of emotional impact | - | <ul style="list-style-type: none"> Previous conviction | <ul style="list-style-type: none"> Remorse Determination of steps taken to address offending behaviour Age and/or lack of maturity | 1 year 6 months | 1 year susp. 2 years |
| 6 | 1 year 6 months | 1 year 6 months | C | - | 2 | <ul style="list-style-type: none"> Nothing stolen or only property of | 1 year | <ul style="list-style-type: none"> Previous conviction | <ul style="list-style-type: none"> Remorse Some indication to address | 1 year | 9 months |

| | | | | | | | | | | | |
|---|----------|-----------------|---|---|---|--|------------------|---|--|-----------------|----------------------------------|
| | | | | | | <ul style="list-style-type: none"> low value to the victim Limited damage to property | | <ul style="list-style-type: none"> Commission of offence whilst under the influence of alcohol | <ul style="list-style-type: none"> addiction/offending behaviour Age | | |
| 7 | 1 year | 1 year 9 months | B | <ul style="list-style-type: none"> Committed on impulse <i>but not limited intrusion</i> | 1 | <ul style="list-style-type: none"> Greater emotional impact than expected Nothing stolen | 2 year | <ul style="list-style-type: none"> Previous convictions Commission of offence whilst under the influence of alcohol | <ul style="list-style-type: none"> <i>Willingness</i> to address addiction <i>Traumatic background</i> | 2 year 6 months | 1 year 8 months |
| 8 | 9 months | 1 year | B | <ul style="list-style-type: none"> Committed on impulse <i>but not limited intrusion</i> | 2 | <ul style="list-style-type: none"> Occupier at home Nothing stolen or only property of low value to the victim | 1 year | <ul style="list-style-type: none"> Previous convictions | <ul style="list-style-type: none"> Remorse <i>Willingness</i> to address addiction | 1 year 3 months | 1 year |
| 9 | 1 year | 1 year 3 months | C | <ul style="list-style-type: none"> Committed on impulse | 1 | <ul style="list-style-type: none"> Occupier at home Much greater impact than expected | 1 year, 6 months | <ul style="list-style-type: none"> Previous convictions | <ul style="list-style-type: none"> <i>Acceptance of alcohol problem</i> | 1 year 9 months | 1 year 2 months susp. 2 years |

Scenario C – Aggravated burglary

| | Existing guideline | | Draft guideline | | | | | | | | |
|----------|--------------------|--|-----------------|--|--------|--|------------|---|--|-------------------|--------------------------------|
| | SP (years) | Final Sentence Pre-GP (years and months) | Culpability | Factors | Harm | Factors | SP (years) | Aggravating | Mitigating | Pre-GP (years) | Final sentence Post-GP (years) |
| Expected | | | B | <ul style="list-style-type: none"> Some degree of planning | 2 | <ul style="list-style-type: none"> Some psychological harm Some degree of loss to the victim | 6 years | <ul style="list-style-type: none"> Use of face covering Offence committed at night Offence committed as part of a group | <ul style="list-style-type: none"> No relevant previous convictions Age | 7 years | 4 years, 8 months |
| 1 | 10 years | 9 years | A | <ul style="list-style-type: none"> Targeting of vulnerable victim Degree of planning | 1 | <ul style="list-style-type: none"> Victim on the premises <i>Violence against property</i> Substantial degree of loss Psychological impact to the victim Ransacking or vandalism <i>Weapon carried</i> | 10 years | <ul style="list-style-type: none"> Weapon carried when entering premises Offence committed as part of a group | <ul style="list-style-type: none"> No relevant convictions Age and lack of maturity | 7 years, 6 months | 5 years |
| 2 | 11 years | 10 years | A | <ul style="list-style-type: none"> Some impact or loss <i>Victim on premises</i> | 1 | <ul style="list-style-type: none"> Victim on the premises Some degree of loss | 10 years | <ul style="list-style-type: none"> Weapon carried when entering premises Use of face covering Offence committed at night Offence was committed as part of a group | <ul style="list-style-type: none"> No relevant convictions Remorse Age and lack of maturity | 10 years | 6 years, 6 months |
| 3 | 10 years | 10 years | A | <ul style="list-style-type: none"> Significant degree of planning | 1 | <ul style="list-style-type: none"> Victim on the premises | 10 years | - | - | 10 years | 6 years, 8 months |
| 4 | 10 years | 8 years | A | <ul style="list-style-type: none"> Significant planning and targeting and <i>slight</i> vulnerability Weapon | 1 or 2 | <ul style="list-style-type: none"> Victim on the premises Violence threatened <i>Attempt to steal what would be a substantial loss</i> | 10 years | <ul style="list-style-type: none"> Weapon carried when entering premises Use of face covering | <ul style="list-style-type: none"> Nothing stolen No previous convictions | 8 years | 5 years, 4 months |

| | | | | | | | | | | | |
|---|----------|---------|---|--|---|--|---------|---|--|---------|-------------------|
| | | | | | | <ul style="list-style-type: none"> • <i>Equipped for burglary</i> • Some psychological impact • <i>Weapon produced</i> | | <ul style="list-style-type: none"> • Offence committed in a dwelling • Offence committed as part of a group | <ul style="list-style-type: none"> • Age and lack of maturity | | |
| 5 | 10 years | 9 years | B | - | 1 | <ul style="list-style-type: none"> • Significant psychological trauma to the victim • Victim on the premises • <i>Some degree of violence threatened, involving a weapon</i> | 8 years | <ul style="list-style-type: none"> • Use of face covering • Vulnerable victim • Offence committed as part of a group | <ul style="list-style-type: none"> • No relevant previous conviction • Age and lack of maturity | 8 years | 5 years, 4 months |
| 6 | 10 years | 9 years | B | <ul style="list-style-type: none"> • Some planning or organisation | 2 | <ul style="list-style-type: none"> • Victim on the premises • <i>Significant degree of loss</i> • Vulnerable victim | 9 years | <ul style="list-style-type: none"> • Unrelated previous convictions • Weapon carried when entering premises • Use of face covering • Vulnerable victim (taken into account at step 1) • Committed at night | <ul style="list-style-type: none"> • Age | 8 years | 5 years, 4 months |
| 7 | 10 years | 9 years | B | <ul style="list-style-type: none"> • Some degree of planning • <i>Part of a group</i> • <i>Committed at night</i> | 1 | <ul style="list-style-type: none"> • Violence used or threatened against the victim • Some psychological injury to the victim • Some degree of loss • Victim on the premises | 9 years | <ul style="list-style-type: none"> • <i>Unrelated previous convictions*</i> • Weapon carried when entering premises (taken into account at step 1) • Use of face covering • Committed at night | <ul style="list-style-type: none"> • No relevant previous convictions • Age and lack of maturity | 9 years | 6 years |
| 8 | 9 years | 9 years | B | <ul style="list-style-type: none"> • Some degree of planning | 1 | - | 8 years | - | - | 8 years | 5 years, 4 months |
| 9 | 10 years | 9 years | B | <ul style="list-style-type: none"> • Targeting of vulnerable victim • Some degree of planning or organisation | 2 | <ul style="list-style-type: none"> • Victims on the premises • Some degree of loss • Some psychological injury or impact on the victim | 6 years | <ul style="list-style-type: none"> • Weapon carried when entering premises • Use of face covering • Offence committed at night • Offence committed as part of a group | <ul style="list-style-type: none"> • No relevant previous convictions • Age | 6 years | 4 years |

* a mitigating factor but applied under aggravation

Scenario D – Non-domestic burglary (judges)

| | Existing guideline | | Draft guideline | | | | | | | |
|-----------------|--------------------|-------------------------|-----------------|---|------|---|---------------|--|------------|---------------------------------|
| | SP (mths) | Final Sentence (months) | Culpability | Factors | Harm | Factors | SP (mths) | Aggravating | Mitigating | Final sentence (years and mths) |
| Expected | | | C | <ul style="list-style-type: none"> Committed on impulse with limited intrusion | 1 | <ul style="list-style-type: none"> Victim on premises Substantial degree of loss | 6 months | <ul style="list-style-type: none"> Previous convictions | None | 1 year |
| 1 | 4.5 months | 6 months | C | <ul style="list-style-type: none"> Committed on impulse | 1 | <ul style="list-style-type: none"> Victim on premises Substantial degree of loss Limited damage or disturbance to property | 6 months | <ul style="list-style-type: none"> Previous convictions | None | 8 months |
| 2 | 4.5 months | 6 months | C | <ul style="list-style-type: none"> Committed on impulse | 2 | <ul style="list-style-type: none"> Some degree of loss | HLCO | <ul style="list-style-type: none"> Previous convictions | None | 6 months |
| 3 | MLCO | HLCO | C | <ul style="list-style-type: none"> Committed on impulse | 2 | <ul style="list-style-type: none"> Some degree of loss | MLCO | <ul style="list-style-type: none"> Previous convictions | None | HLCO |
| 4 | CO | HLCO/SO | C | <ul style="list-style-type: none"> Committed on impulse | 2 | <ul style="list-style-type: none"> Some degree of loss | MLCO | None | None | CO |
| 5 | HLCO | - | C | <ul style="list-style-type: none"> Committed on impulse with limited intrusion into property | 2 | <ul style="list-style-type: none"> Loss Impact on victim | MLCO | <ul style="list-style-type: none"> Previous convictions | None | HLCO (UW/RAR) |
| 6 | 4.5 months/LLCO | 6 months | C | <ul style="list-style-type: none"> Committed on impulse (<i>opportunistic</i>) | 2 | <ul style="list-style-type: none"> Some degree of loss | MLCO | <ul style="list-style-type: none"> Previous convictions | None | 6 months |
| 7 | 4.5 months | 6 months possibly susp. | C | <ul style="list-style-type: none"> Committed on impulse with limited intrusion into property | 2 | <ul style="list-style-type: none"> Greater emotional impact | CO | <ul style="list-style-type: none"> Previous convictions | None | MLCO (curfew) |
| 8 | 9 months | 6 months (assuming GP) | C | <ul style="list-style-type: none"> Committed on impulse | 1/2 | <ul style="list-style-type: none"> Substantial degree of loss Emotional impact (greater or much greater) | 6 months/MLCO | - | None | 6 months |

| | | | | | | | | | | |
|---|---------------------|----------|---|------------------------|---|------------------------------|-------------------|------------------------|------|----------|
| 9 | 4.5 months/ MLCO | 6 months | C | • Committed on impulse | 1 | • Substantial degree of loss | 6 months/ MLCO | • Previous convictions | None | 8 months |
|---|---------------------|----------|---|------------------------|---|------------------------------|-------------------|------------------------|------|----------|

Scenario D – Non-domestic burglary (Magistrates)

| Existing guideline | | Draft guideline | | | | | | | | | |
|--------------------|------------|-----------------------|-------------|--|--|--|--|--|---|------------------------------|---------------------------------------|
| Expected | SP (mths) | Final Sentence Pre-GP | Culpability | Factors | Harm | Factors | SP | Aggravating | Mitigating | Sentence (Pre-GP) | Final sentence (Post-GP) |
| | | | | C | <ul style="list-style-type: none"> Committed on impulse, with limited intrusion | 1 | <ul style="list-style-type: none"> Victim on premises Substantial degree of loss | 6 months | <ul style="list-style-type: none"> Previous convictions | None | 1 year |
| 1 | 4.5 months | MLCO | C | <ul style="list-style-type: none"> Committed on impulse, with limited intrusion | 2 | <ul style="list-style-type: none"> Some degree of loss | MLCO | <ul style="list-style-type: none"> Previous convictions | None | MLCO | MLCO |
| 2 | 4.5 months | 4.5 months | C | <ul style="list-style-type: none"> Committed on impulse, with limited intrusion | 2 | <ul style="list-style-type: none"> Some degree of loss | MLCO | <ul style="list-style-type: none"> Previous convictions | None | HLCO (200hr UW) | HLCO (180hr UW) |
| 3 | HLCO | HLCO | C | <ul style="list-style-type: none"> Committed on impulse, with limited intrusion | 2 | <ul style="list-style-type: none"> Greater emotional impact Damage of property causing some degree of loss | MLCO | <ul style="list-style-type: none"> Previous convictions | None | HLCO (UPW?) | HLCO (discount hrs) |
| 4 | 4.5 months | 3 months | C | <ul style="list-style-type: none"> Committed on impulse, with limited intrusion Victim on premises | 2 | <ul style="list-style-type: none"> Greater emotional impact Some degree of loss | MLCO | <ul style="list-style-type: none"> Previous convictions | None | MLCO/ Band B fine (100hr UW) | MLCO/Band B fine (66% WI and 66hr UW) |
| 5 | 4.5 months | 2 months 1week | C | <ul style="list-style-type: none"> <i>Defendant was not an intruder as was at the hospital when the offence was committed</i> | 2 | <ul style="list-style-type: none"> Greater emotional impact <i>Multiple items stolen</i> | MLCO | <ul style="list-style-type: none"> Previous convictions Abuse of a position of trust | <ul style="list-style-type: none"> <i>GP at earliest opportunity</i> | Custody* | HLCO |
| 6 | MLCO | HLCO | B | <ul style="list-style-type: none"> Committed on impulse, with limited intrusion | 2 | <ul style="list-style-type: none"> Some degree of loss | 6 months | <ul style="list-style-type: none"> Previous convictions | None | 6 months | 4 months possibly susp |

| | | | | | | | | | | | |
|---|------------|------------|---|--|---|--|----------|---|--|--------------------|---|
| 7 | MLCO | 4.5 months | C | <ul style="list-style-type: none"> Limited intrusion | 2 | <ul style="list-style-type: none"> Victim on premises Soiling of property Some degree of loss Theft/damage to property | MLCO | <ul style="list-style-type: none"> Previous convictions | None | HLCO (victim comp) | HLCO (lower hours) |
| 8 | 4.5 months | 4.5 months | C | <ul style="list-style-type: none"> Committed on impulse, with limited intrusion <i>Little planning</i> | 1 | <ul style="list-style-type: none"> Victim on premises Some degree of loss | 6 months | <ul style="list-style-type: none"> Previous convictions | None | 6 months | 6 months (credit for GP is not sending to CC) |
| 9 | 4.5 months | 4.5 months | C | <ul style="list-style-type: none"> Committed on impulse, with limited intrusion | 2 | <ul style="list-style-type: none"> Some degree of loss Emotional impact on victim | 6 months | <ul style="list-style-type: none"> Previous convictions <i>Emotional impact on the victim</i> <i>A place of work</i> <i>Public place</i> <i>Damage to property</i> | <ul style="list-style-type: none"> <i>Committed on impulse with limited intrusion</i> <i>Low value property but high sentimental value</i> | 6 months | 4 months sups. 1 year |

* unspecified length.

Scenario E – Non-domestic burglary (Magistrates)

| Existing guideline | | Draft guideline | | | | | | | | |
|--------------------|--------------------------------|----------------------------------|--|------|---|-----------|---|--|--|--|
| SP (years) | Final Sentence Pre-GP (months) | Culpability | Factors | Harm | Factors | SP (mths) | Aggravating | Mitigating | Pre-GP (months) | Final sentence Post-GP (months) |
| Expected | | | <ul style="list-style-type: none"> Offence committed on impulse, with limited intrusion | 2 | <ul style="list-style-type: none"> Some degree of loss Ransacking or vandalism | MLCO | <ul style="list-style-type: none"> Part of a group Under the influence of alcohol | None | HLCO | MLCO |
| 1 | 4.5 months | MLCO | <ul style="list-style-type: none"> Committed on impulse | 2 | <ul style="list-style-type: none"> Ransacking or vandalism | MLCO | <ul style="list-style-type: none"> Part of a group Under influence of alcohol | <ul style="list-style-type: none"> No relevant previous convictions <i>Guilty plea</i> | MLCO | LLCO (ATR; RAR) |
| 2 | MLCO | MLCO | <ul style="list-style-type: none"> Committed on impulse | 2 | <ul style="list-style-type: none"> Some degree of loss Ransacking or vandalism | MLCO | <ul style="list-style-type: none"> Part of a group Under influence of alcohol | <ul style="list-style-type: none"> No relevant previous convictions <i>Guilty plea</i> | MLCO (100 hrs UPW) | MLCO (50 hrs UPW) |
| 3 | LLCO | LLCO | <ul style="list-style-type: none"> <i>More than limited intrusion</i> | 2 | <ul style="list-style-type: none"> Some degree of loss | 6 months | <ul style="list-style-type: none"> Under influence of alcohol | <ul style="list-style-type: none"> No relevant previous convictions <i>Guilty plea</i> | 6 months | HLCO |
| 4 | MLCO | MLCO (120hr UPW) and Band B fine | <ul style="list-style-type: none"> Committed on impulse | 2 | <ul style="list-style-type: none"> Some degree of loss <i>Some degree of damage to property</i> | MLCO | <ul style="list-style-type: none"> Part of a group Under influence of alcohol | - | MLCO (120hr UPW) Band B fine (70% weekly income) | MLCO (80 hrs UPW) Band B fine (100% weekly income) |
| 5 | 4.5 months | 2 months | <ul style="list-style-type: none"> <i>Not limited intrusion</i> | 2 | <ul style="list-style-type: none"> Some degree of loss Ransacking or vandalism | 6 months | - | <ul style="list-style-type: none"> No relevant previous convictions <i>Guilty plea</i> | 6 months | 4 months |

| | | | | | | | | | | | |
|---|-----------------|------------|---|--|---|--|-------------|--|--|-------------|-----------------------------|
| 6 | 4.5 months | 4.5 months | B | <ul style="list-style-type: none"> Committed on impulse <i>Intrusion on property</i> | 2 | <ul style="list-style-type: none"> Some degree of loss <i>Some damage to property</i> | 6 months | <ul style="list-style-type: none"> previous convictions Under influence of alcohol | - | 6 months | 4 months SSO |
| 7 | 4.5 months | 4.5 months | C | <ul style="list-style-type: none"> Offence committed on impulse | 2 | <ul style="list-style-type: none"> Some degree of loss Ransacking or vandalism | MLCO | <ul style="list-style-type: none"> Under influence of alcohol | <ul style="list-style-type: none"> No relevant previous convictions | MLCO | MLCO |
| 8 | LLCO (40hr UPW) | LLCO | C | <ul style="list-style-type: none"> Offence committed on impulse, with limited intrusion | 3 | <ul style="list-style-type: none"> Some degree of loss Nothing stolen | Band B fine | <ul style="list-style-type: none"> Under influence of alcohol | <ul style="list-style-type: none"> No relevant previous convictions <i>Reasonably good character</i> <i>Guilty plea</i> | Band B fine | Band B fine (1/3 reduction) |
| 9 | 4.5 months | 4.5 months | B | <ul style="list-style-type: none"> Offence committed on impulse, with limited intrusion | 2 | <ul style="list-style-type: none"> Some degree of loss Ransacking or vandalism <i>Intrusion</i> | 6 months | <ul style="list-style-type: none"> Under influence of alcohol | <ul style="list-style-type: none"> No relevant previous convictions | 6 months | M-HLCO |

Annex C

Aggravated burglary

Theft Act 1968 (section 10)

Triable only on indictment

Maximum: Life imprisonment

Offence range: 1 – 13 years' custody

This is a [Schedule 19](#) offence for the purposes of sections [274](#) and section [285](#) (required life sentence for offence carrying life sentence) of the Sentencing Code.

This is a specified offence for the purposes of sections [266](#) and [279](#) (extended sentence for certain violent, sexual or terrorism offences) of the Sentencing Code.

STEP ONE

Determining the offence category

The court should determine the offence category with reference only to the factors in the table 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. **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**

| Culpability demonstrated by one or more of the following: | |
|--|--|
| A- High Culpability | <ul style="list-style-type: none">• Targeting of vulnerable victim• A significant degree of planning or organisation |
| B- Medium culpability | <ul style="list-style-type: none">• Some degree of planning or organisation• Other cases that fall between categories A and C because:<ul style="list-style-type: none">○ Factors are present in A and C which balance each other out and/or○ The offender's culpability falls between the factors described in A and C |
| C- Lower culpability | <ul style="list-style-type: none">• Involved through coercion, intimidation or exploitation• Mental disorder or learning disability, where linked to the commission of the offence |

Harm

The level of harm is assessed by weighing up all the factors of the case

| | |
|-------------------|--|
| Category 1 | <ul style="list-style-type: none">• Substantial physical or psychological injury or other substantial impact on the victim• Victim at home or on the premises (or returns) while offender present• Violence used or threatened against the victim, particularly involving a weapon• Theft of/damage to property causing a substantial degree of loss to the victim (whether economic, commercial or personal value)• Soiling of property and/or extensive damage or disturbance to property• Context of public disorder |
| Category 2 | <ul style="list-style-type: none">• Some physical or psychological injury or some other impact on the victim• Theft of/damage to property causing some degree of loss to the victim (whether economic, commercial or personal value) |

| | |
|------------|---|
| | <ul style="list-style-type: none"> Ransacking or vandalism to the property |
| Category 3 | <ul style="list-style-type: none"> No violence used or threatened and a weapon is not produced Limited physical or psychological injury or other limited impact on the victim |

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 all offenders irrespective of plea or previous conditions

| Harm | Culpability | | |
|-------------------|---|--|--|
| | A | B | C |
| Category 1 | Starting Point 10 years' custody Category Range 9 -13 years' custody | Starting Point 8 years' custody Category Range 6 -11 years' custody | Starting Point 6 years' custody Category Range 4 – 9 years' custody |
| Category 2 | Starting Point 8 years' custody Category Range 6 -11 years' custody | Starting Point 6 years' custody Category Range 4– 9 years' custody | Starting Point 4 years' custody Category Range 2-6 years' custody |
| Category 3 | Starting Point 6 years' custody Category Range 4-9 years' custody | Starting Point 4 years' custody Category Range 2-6 years' custody | Starting Point 2 years' custody Category Range 1-4 years' custody |

<https://www.sentencingcouncil.org.uk/overarching-guides/crown-court/item/imposition-of-community-and-custodial-sentences/>.

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

Care should be taken to avoid double counting factors already taken into account at step one

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
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors:

- Weapon carried when entering premises
Care should be taken to avoid double counting in these cases. If an offender commits an aggravated burglary with intent to steal/inflict GBH/ do criminal damage [a 9(1)(a) burglary], they commit the offence at the point of the trespass when they enter the building. So for these offences, all aggravated burglaries would have the weapon present on entry. For the aggravated version of s.9(1)(b) the offence is not committed until the point of the theft/attempted theft or GBH/attempt GBH and therefore the offender may have the weapon on entry or have picked it up in the address. *R v Sage (AG's ref SAGE [2019] EWCA Crim 934, [2019] 2 Cr App R (S) 50)* sets out that having a weapon present on entry is an essential element of an aggravated s.9(1)(a) offence and so care needs to be taken in s.9(1)(a) cases that the fact the offender has a weapon present on entry is not taken into account a second time. In s.9(1)(b) cases, however, the fact that the offender had taken a weapon to the premises, and was in possession of it when entering, will normally aggravate the offence (unless already taken into account at step 1).
- Use of face covering or disguise
- Offence committed in a dwelling
- Child at home (or returns home) when offence committed
- Offence committed at night
- Abuse of power and/or position of trust
- Restraint, detention or additional gratuitous degradation of the victim
- Vulnerable victim (where not captured at category one)
- Victim compelled to leave their home
- Offence was committed as part of a group
- Offences taken into consideration
- Any steps taken to prevent the victim reporting the incident or obtaining assistance and/or from assisting or supporting the prosecution
- Offence committed on licence or post sentence supervision or while subject to court order(s)
- Commission of offence whilst under the influence of alcohol or drugs
- Established evidence of community impact

Factors reducing seriousness or reflecting personal mitigation

- Nothing stolen or only property of low value to the victim (whether economic, commercial or personal)
- Offender has made voluntary reparation to the victim
- The offender was in a lesser or subordinate role if acting with others/performed limited role under direction
- No previous convictions **or** no relevant/recent convictions
- Remorse
- Good character and/or exemplary conduct
- Determination, and/or demonstration of steps taken to address addiction or offending behaviour
- Physical disability or serious medical conditions requiring urgent, intensive or long-term treatment
- Mental disorder or learning disability, where not linked to the commission of the offence
- Age and/or lack of maturity
- Delay since apprehension
- Sole or primary carer for dependent relatives

STEP THREE

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

The court should take into account [section 74 of the Sentencing Code](#) (reduction in sentence for assistance to prosecution) 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 73 of the Sentencing Code](#) and the *Reduction in Sentence for a Guilty Plea* guideline.

STEP FIVE

Dangerousness

The court should consider whether having regard to the criteria contained in [section 308 of the Sentencing Code](#) it would be appropriate to impose a life sentence (sections [274](#) and [285](#)) or an extended sentence (sections [266](#) and [279](#)). 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 SIX

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 in accordance with the Totality guideline.

STEP SEVEN

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders. The court must give reasons if it decides not to order compensation. ([Sentencing Code, s.55](#)).

- [Ancillary orders – Magistrates' Court](#)
- [Ancillary orders – Crown Court Compendium](#)

STEP EIGHT

Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP NINE

Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and [section 325 of the Sentencing Code](#).

Annex D

(Version with proposed changes)

Non-domestic burglary

Theft Act 1968 (section 9)

Triable either way (except as noted below)

Maximum: 10 years' custody

Offence range: Discharge – five years' custody

This is a specified offence for the purposes of sections [266](#) and [279](#) (extended sentence for certain violent, sexual or terrorism offences) of the Sentencing Code if it was committed with intent to:

- a. inflict grievous bodily harm on a person, or
- b. do unlawful damage to a building or anything in it.

This offence is **indictable only** where it is a burglary comprising the commission of, or an intention to commit, an offence which is triable only on indictment.

STEP ONE

Determining the offence category

The court should determine the offence category with reference only to the factors in the table 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. **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**

| Culpability demonstrated by one or more of the following: | |
|--|--|
| A- High Culpability | <ul style="list-style-type: none">• A significant degree of planning or organisation• Knife or other weapon carried (<u>see step 6 on totality when sentencing more than one offence</u>) |
| B- Medium culpability | <ul style="list-style-type: none">• Some degree of planning or organisation• Equipped for burglary (where not in high culpability)• Other cases that fall between categories A and C because:<ul style="list-style-type: none">○ Factors are present in A and C which balance each other out and/or○ The offender's culpability falls between the factors described in A and C |
| C- Lower culpability | <ul style="list-style-type: none">• Offence committed on impulse, with limited intrusion into property• Involved through coercion, intimidation or exploitation• Mental disorder or learning disability, where linked to the commission of the offence |

Harm

The level of harm is assessed by weighing up all the factors of the case

| | |
|------------|---|
| Category 1 | <ul style="list-style-type: none">• <u>Violence used against the victim</u>• <u>Substantial physical or psychological injury or substantial emotional or other impact on the victim</u>• Victim on the premises (or returns <u>or otherwise attends</u>) while offender present• Theft of/damage to property causing a substantial degree of loss to the victim (whether economic, commercial or personal value)• Soiling of property and/or extensive damage or disturbance to property• Context of public disorder (<u>when linked to the commission of the offence</u>) |
| Category 2 | <ul style="list-style-type: none">• <u>Violence threatened but not used against the victim</u>• <u>Some physical or psychological injury or some emotional or other impact on the victim</u> |

| | |
|------------|--|
| | <ul style="list-style-type: none"> • Theft of/damage to property causing <u>a moderate</u> degree of loss to the victim (whether economic, commercial or personal value) • <u>Moderate damage or disturbance to</u> the property |
| Category 3 | <ul style="list-style-type: none"> • <u>Limited physical or psychological injury or limited emotional or other impact on the victim</u> • Nothing stolen or only property of low value to the victim (whether economic, commercial or personal) • Limited damage or disturbance to property |

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 all offenders irrespective of plea or previous conditions

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 [part 10](#), or an alcohol treatment requirement under [part 11](#), of Schedule 9 of the Sentencing Code may be a proper alternative to a short or moderate custodial sentence.

| Harm | Culpability | | |
|-------------------|---|---|---|
| | A | B | C |
| Category 1 | Starting Point 2 years' custody Category Range 1 -5 years' custody | Starting Point 1 years' custody Category Range High level community order - 2 years' custody | Starting Point 6 months custody Category Range Medium level community order – 1 years' custody |
| Category 2 | Starting Point 1 years' custody Category Range High level community order - 2 years' custody | Starting Point 6 months custody Category Range Medium level community order – 1 years' custody | Starting Point <u>High</u> level community order Category Range Low <u>level</u> <u>community order -</u> <u>- 6 months</u> <u>custody</u> |
| Category 3 | Starting Point 6 months custody Category Range Medium level community order - 1 years' custody | Starting Point <u>High</u> level community order Category Range Low level community <u>order-</u> <u>6 months custody</u> | Starting Point <u>Medium level</u> <u>community order</u> Category Range <u>Band B fine –High</u> level community order |

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any 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
- Offence committed whilst on bail
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors:

- Loss or damage caused to heritage and/or cultural assets
- Abuse of a position of trust
- Restraint, detention or additional gratuitous degradation of the victim
- Vulnerable victim
- Offence was committed as part of a group
- Offences taken into consideration
- Any steps taken to prevent the victim reporting the incident or obtaining assistance and/or from assisting or supporting the prosecution
- Offence committed on licence or post sentence supervision or while subject to court order(s)
- Commission of offence whilst under the influence of alcohol or drugs
- Established evidence of community impact

Factors reducing seriousness or reflecting personal mitigation

- Offender has made voluntary reparation to the victim
- The offender was in a lesser or subordinate role if acting with others/performed limited role under direction
- No previous convictions **or** no relevant/recent convictions
- Remorse
- Good character and/or exemplary conduct
- Determination, and/or demonstration of steps taken to address addiction or offending behaviour
- Physical disability or serious medical conditions requiring urgent, intensive or long-term treatment
- Mental disorder or learning disability, where not linked to the commission of the offence

- Age and/or lack of maturity
- Delay since apprehension
- Sole or primary carer for dependent relatives

STEP THREE

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

The court should take into account [section 74 of the Sentencing Code](#) (reduction in sentence for assistance to prosecution) 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 73 of the Sentencing Code](#) and the *Reduction in Sentence for a Guilty Plea* guideline.

STEP FIVE

Dangerousness

A burglary offence under section 9 Theft Act 1968 is a specified offence if it was committed with the intent to (a) inflict grievous bodily harm on a person, or (b) do unlawful damage to a building or anything in it. The court should consider whether having regard to the criteria contained [section 308 of the Sentencing Code](#) it would be appropriate to impose an extended sentence (sections [266](#) and [279](#)).

STEP SIX

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 in accordance with the Totality guideline.

STEP SEVEN

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders. The court must give reasons if it decides not to order compensation ([Sentencing Code, s.55](#)).

- [Ancillary orders – Magistrates' Court](#)
- [Ancillary orders – Crown Court Compendium](#)

STEP EIGHT

Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP NINE

Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and [section 325 of the Sentencing Code](#).

Annex E

Domestic burglary

Theft Act 1968 (section 9)

Triable either way (except as noted below)

Maximum: 14 years' custody

Offence range: Low level community order- six years' custody

This is a **specified offence** for the purposes of sections [266](#) and [279](#) (extended sentence for certain violent, sexual or terrorism offences) of the Sentencing Code if it was committed with intent to:

- a. inflict grievous bodily harm on a person, or
- b. do unlawful damage to a building or anything in it.

This offence is **indictable only** where:

- a. it is a burglary comprising the commission of, or an intention to commit, an offence which is triable only on indictment; or
- b. any person in the dwelling was subjected to violence or the threat of violence; or
- c. if the defendant were convicted, it would be a third qualifying conviction for domestic burglary.

Where sentencing an offender for a qualifying **third domestic burglary**, the Court must apply [section 314 of the Sentencing Code](#) and impose a custodial term of at least three years, unless it is satisfied that there are particular circumstances which relate to any of the offences or to the offender which would make it unjust to do so.

STEP ONE

Determining the offence category

The court should determine the offence category with reference only to the factors in the table 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. **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**

| Culpability demonstrated by one or more of the following: | |
|--|--|
| A- High Culpability | <ul style="list-style-type: none">• Targeting of vulnerable victim• A significant degree of planning or organisation• Knife or other weapon carried (<u>see step six on totality when sentencing more than one offence</u>) |
| B- Medium culpability | <ul style="list-style-type: none">• Some degree of planning or organisation• Equipped for burglary (where not in high culpability)• Other cases that fall between categories A and C because:<ul style="list-style-type: none">○ Factors are present in A and C which balance each other out and/or○ The offender's culpability falls between the factors described in A and C |
| C- Lower culpability | <ul style="list-style-type: none">• Offence committed on impulse, with limited intrusion into property• Involved through coercion, intimidation or exploitation• Mental disorder or learning disability, where linked to the commission of the offence |

Harm

The level of harm is assessed by weighing up all the factors of the case

| | |
|------------|--|
| Category 1 | <ul style="list-style-type: none">• Much greater emotional impact on the victim than would normally be expected• Occupier at home (or returns home) while offender present• Violence used or threatened against the victim• Theft of/damage to property causing a substantial degree of loss to the victim (whether economic, commercial or personal value)• Soiling of property and/or extensive damage or disturbance to property• Context of public disorder |
| Category 2 | <ul style="list-style-type: none">• Greater emotional impact on the victim than would normally be expected |

| | |
|------------|---|
| | <ul style="list-style-type: none"> • Theft of/damage to property causing some degree of loss to the victim (whether economic, commercial or personal value) • Ransacking or vandalism to the property |
| Category 3 | <ul style="list-style-type: none"> • Nothing stolen or only property of low value to the victim (whether economic, commercial or personal) • Limited damage or disturbance to property |

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 all offenders irrespective of plea or previous conditions

Where sentencing an offender for a qualifying **third domestic burglary**, the Court must apply [section 314 of the Sentencing Code](#) and impose a custodial term of at least three years, unless it is satisfied that there are particular circumstances which relate to any of the offences or to the offender which would make it unjust to do so.

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 [part 10](#), or an alcohol treatment requirement under [part 11](#), of Schedule 9 of the Sentencing Code may be a proper alternative to a short or moderate custodial sentence.

For cases of particular gravity, sentences above the top of the range may be appropriate.

| Harm | Culpability | | |
|-------------------|---|---|---|
| | A | B | C |
| Category 1 | Starting Point 3 years' custody Category Range 2 -6 years' custody | Starting Point 2 years' custody Category Range 1 -4 years' custody | Starting Point 1 year 6 months' custody Category Range 6 months – 3 years' custody |
| Category 2 | Starting Point 2 years' custody Category Range 1 -4 years' custody | Starting Point 1 year 6 months' custody Category Range 6 months – 3 years' custody | Starting Point 1 years' custody Category Range High level community order-2 years' custody |

| | | | |
|-------------------|---|---|--|
| Category 3 | Starting Point 1 year 6 months' custody Category Range 6 months - 3 years' custody | Starting Point 1 years' custody Category Range High level community order-2 years' custody | Starting Point High level community order Category Range Low level community order-6 months custody |
|-------------------|---|---|--|

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any 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
- Offence committed whilst on bail
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors:

- Child at home (or returns home) when offence committed
- Offence committed at night
- Restraint, detention or additional gratuitous degradation of the victim
- Vulnerable victim (where not already taken into account at step one)
- Victim compelled to leave their home
- Offence was committed as part of a group
- Offences taken into consideration
- Any steps taken to prevent the victim reporting the incident or obtaining assistance and/or from assisting or supporting the prosecution
- Offence committed on licence or post sentence supervision or while subject to court order(s)
- Commission of offence whilst under the influence of alcohol or drugs
- Established evidence of community impact

Factors reducing seriousness or reflecting personal mitigation

- Offender has made voluntary reparation to the victim
- The offender was in a lesser or subordinate role if acting with others/performed limited role under direction

- No previous convictions **or** no relevant/recent convictions
- Remorse
- Good character and/or exemplary conduct
- Determination, and/or demonstration of steps taken to address addiction or offending behaviour
- Physical disability or serious medical conditions requiring urgent, intensive or long-term treatment
- Mental disorder or learning disability, where not linked to the commission of the offence
- Age and/or lack of maturity
- Delay since apprehension
- Sole or primary carer for dependent relatives

STEP THREE

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

The court should take into account [section 74 of the Sentencing Code](#) (reduction in sentence for assistance to prosecution) 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 73 of the Sentencing Code](#) and the *Reduction in Sentence for a Guilty Plea* guideline. Where a minimum sentence is imposed under [section 314 of the Sentencing Code](#), the sentence must not be less than 80 percent of the appropriate custodial period after any reduction for a guilty plea.

STEP FIVE

Dangerousness

A burglary offence under section 9 Theft Act 1968 is a specified offence if it was committed with the intent to (a) inflict grievous bodily harm on a person, or (b) do unlawful damage to a building or anything in it. The court should consider whether having regard to the criteria contained in [section 308 of the Sentencing Code](#) it would be appropriate to impose an extended sentence (sections [266](#) and [279](#)).

STEP SIX

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 in accordance with the Totality guideline.

STEP SEVEN

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders. The court must give reasons if it decides not to order compensation ([Sentencing Code, s.55](#)).

- [Ancillary orders – Magistrates' Court](#)
- [Ancillary orders – Crown Court Compendium](#)

STEP EIGHT

Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP NINE

Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and [section 325 of the Sentencing Code](#).

Burglary offences- Annex F

These data tables provide statistics on the outcomes and demographics of offenders sentenced for offences covered by the Sentencing Council guidelines for burglary offences, which are found here:

<https://www.sentencingcouncil.org.uk/crown-court/>

Section 1: Non-domestic burglary

[Table 1 1](#) Number of adult offenders sentenced for non-domestic burglary covered by the definitive guideline, all courts, 2010-2020

[Table 1 2](#) Number and proportion of adult offenders sentenced for non-domestic burglary covered by the definitive guideline, by sentence outcome, 2010-2020

[Table 1 3](#) Average custodial sentence lengths (ACSL) received by adult offenders sentenced for non-domestic burglary covered by the definitive guideline, 2010-2020

[Table 1 4](#) Sentence lengths received by adult offenders sentenced to immediate custody for non-domestic burglary covered by the definitive guideline, 2010-2020

Section 2: Domestic burglary

[Table 2 1](#) Number of adult offenders sentenced for domestic burglary covered by the definitive guideline, all courts, 2010-2020

[Table 2 2](#) Number and proportion of adult offenders sentenced for domestic burglary covered by the definitive guideline, by sentence outcome, 2010-2020

[Table 2 3](#) Average custodial sentence lengths (ACSL) received by adult offenders sentenced for domestic burglary covered by the definitive guideline, 2010-2020

[Table 2 4](#) Sentence lengths received by adult offenders sentenced to immediate custody for domestic burglary covered by the definitive guideline, 2010-2020

Section 3: Aggravated burglary

[Table 3 1](#) Number of adult offenders sentenced for aggravated burglary covered by the definitive guideline, all courts, 2010-2020

[Table 3 2](#) Number and proportion of adult offenders sentenced for aggravated burglary covered by the definitive guideline, by sentence outcome, 2010-2020

[Table 3 3](#) Average custodial sentence lengths (ACSL) received by adult offenders sentenced for aggravated burglary covered by the definitive guideline, 2010-2020

[Table 3 4](#) Sentence lengths received by adult offenders sentenced to immediate custody for aggravated burglary covered by the definitive guideline, 2010-2020

Notes

Data sources and quality

The Court Proceedings Database (CPD), maintained by the Ministry of Justice (MoJ), is the source of the data for these data tables. Every effort is made by MoJ and the Sentencing Council to ensure that the figures presented are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts and police forces. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used.

Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. These restrictions resulted in reduction of court activity to adhere to new rules on movement and social interaction and the prioritisation of certain types of court case involving cases that are more likely to result in custody. This means that the figures presented on an offence specific basis may reflect these rules to varying degrees depending on the offence in question and whether these cases continued to be heard throughout the time period. Therefore, it is important to note that these short-term trends might mostly reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the long term. From September 2020, some cases proceeded at Derby Crown and magistrates' courts were recorded on the new Common Platform (CP) case management system. Data processing development is currently underway on this new system, and as a result the small number of cases recorded on the CP system during the latter part of 2020 are not included in the CPD.

Further details of the processes by which the Ministry of Justice validate the records in the Court Proceedings Database can be found within the guide to their Criminal Justice Statistics publication which can be downloaded via the link:
<https://www.gov.uk/government/collections/criminal-justice-statistics>

Volumes of sentences

The data presented in these data tables only include cases where the specified offence was the principal offence committed. When a defendant has been found guilty of two or more offences this is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe. Although the offender will receive a sentence for each of the offences that they are convicted of, it is only the sentence for the principal offence that is presented in these data tables.

Sentence outcomes

The outcomes presented are the final sentence outcomes, after taking into account all factors of the case, including whether a guilty plea was made. This is because the sentence length information available in the Court Proceedings Database is the final sentence imposed, after any reduction for guilty plea.

The sentence outcome shown is the most severe sentence or order given for the principal offence (i.e. the principal sentence), secondary sentences given for the principal offence are not included in the tables.

Offender demographics

Ethnicity is the self-identified ethnicity as defined by the individual and is categorised using the 5+1 self-identified classification. The Not recorded/not known category includes all others for whom ethnicity information is not available, either because they have chosen not to state their ethnicity or because no information has been recorded. Prior to May 2020, this was based on the 16+1 classification used in the 2001 census. Since May 2020, this has been replaced by the 18+1 classification used in the 2011 Census. This had caused two key changes to the data presented in our publications:

1) The data now captures a further two ethnicity classifications: Gypsy or Irish Traveller which will fall into the broader category of 'White' and Arab which will fall into the broader category of 'Other'. While the data suggests that no offenders from these ethnic backgrounds have been sentenced since the 18+1 classification was introduced, these ethnic groups will begin to be captured in the 2021 data.

2) The movement of the Chinese ethnicity classification from the broad category of 'Chinese and Other' into 'Asian'. Due to the small number of offenders sentenced who identified as Chinese (around 310 offenders in 2020 across all offences), this change has had little impact on overall trends presented in the data, we have also applied this change to the whole timeseries presented to allow for continued comparison across years. However, it means that the 'Chinese and Other' category will be renamed 'Other' within our data tables to account for this change.

Therefore, the ethnicity categories for self-identified ethnicity are: Asian, Black, Mixed, Other, White, Not recorded/not known. More information on the 18+1 classification can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691544/self-defined-ethnicity-18plus1.pdf

The proportions reflected amongst those for whom data was provided may not reflect the demographics of the full population sentenced. In the CPD, prior to 2017 adults of unknown ages were defaulted to 25. From 2017 onwards, the majority of records where the age is unknown have been grouped within an 'age unknown' variable, however there may still be some cases where the age is unknown and has therefore been defaulted to 25.

Due to the small number of offenders sentenced for some offences, care should be taken when comparing figures across different groups. This is particularly true where there are only a small number of offenders within a specific demographic group, as small numeric changes can present as large percentage changes when they are calculated using small volumes. This should be considered when comparing percentages across groups.

General conventions

The following conventions have been applied to the data:

- Percentages derived from the data have been provided in the tables to the nearest whole percentage, except when the nearest whole percentage is zero. In some instances, this may mean that percentages shown do not add up to 100 per cent.
- Where the nearest whole per cent is zero, the convention '<0.5' has been used.
- Where totals have been provided, these have been calculated using unrounded data and then rounded.

Uses made of the data

Data provided in the Council's range of statistical bulletins and tables are used to inform public debate of the Council's work.

Background information

Further information on the Sentencing Council and its work, as well as information on general sentencing practice in England and Wales can be found on the Council's website at:

<https://sentencingcouncil.org.uk>

The Ministry of Justice publishes a quarterly statistical publication, Criminal Justice Statistics, which includes a chapter focusing on sentencing in England and Wales. This chapter includes information on the number of offenders sentenced by offence group and by demographic factors such as age, sex and self-identified ethnicity. The full publication can be accessed via the Ministry of Justice website at:
<https://www.gov.uk/government/collections/criminal-justice-statistics-quarterly>

Detailed sentencing data from the Ministry of Justice's Court Proceedings Database can be accessed via the data tool published alongside the annual Criminal Justice Statistics publication. The tool enables data covering the last decade to be viewed by offence, sex, age range and ethnicity, and can be accessed via the following link (for example, see the 'Outcomes by Offence data tool'):
<https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2020>

Contact points for further information

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Table 1.1: Number of adult offenders sentenced for non-domestic burglary, all courts, 2010-2020²

[Index](#)

| Court | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Magistrates' court | 5,848 | 6,420 | 5,474 | 4,995 | 4,414 | 3,942 | 3,856 | 4,031 | 3,703 | 3,364 | 2,833 |
| Crown Court | 1,789 | 2,477 | 2,459 | 2,044 | 2,139 | 2,094 | 1,849 | 1,772 | 1,759 | 1,879 | 1,557 |
| Total | 7,637 | 8,897 | 7,933 | 7,039 | 6,553 | 6,036 | 5,705 | 5,803 | 5,462 | 5,243 | 4,390 |

| Court | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Magistrates' court | 77% | 72% | 69% | 71% | 67% | 65% | 68% | 69% | 68% | 64% | 65% |
| Crown Court | 23% | 28% | 31% | 29% | 33% | 35% | 32% | 31% | 32% | 36% | 35% |
| Total | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

2) In August 2011, riots occurred in London and other major cities across England and Wales. Around 50 per cent of the people arrested in connection with the riots were charged with burglary offences. Around 670 offenders sentenced for non-domestic burglary and 60 offenders sentenced for domestic burglary included in these data tables 2011 and 2012 were sentenced for offences relating to the riots. Sentencing trends for these cases and for others dealt with around the same time may have been affected the severity of the riots, and so users should bear this in mind when interpreting data from around this period.

Table 1.2: Number and proportion of adult offenders sentenced for non-domestic burglary, by sentence outcome, 2010-2020^{1,2}

[Index](#)

| Outcome | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|------------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Absolute and conditional discharge | 329 | 355 | 233 | 209 | 230 | 197 | 139 | 102 | 109 | 91 | 85 |
| Fine | 318 | 340 | 234 | 218 | 259 | 205 | 168 | 188 | 157 | 113 | 131 |
| Community sentence | 3,107 | 3,189 | 2,534 | 1,911 | 1,462 | 1,375 | 1,132 | 1,122 | 1,163 | 1,147 | 796 |
| Suspended sentence | 1,014 | 1,198 | 1,100 | 1,169 | 1,209 | 1,227 | 1,211 | 1,205 | 1,034 | 912 | 877 |
| Immediate custody | 2,736 | 3,639 | 3,581 | 3,151 | 3,004 | 2,911 | 2,980 | 3,110 | 2,896 | 2,881 | 2,398 |
| Otherwise dealt with ³ | 133 | 176 | 251 | 381 | 389 | 121 | 75 | 76 | 103 | 99 | 103 |
| Total | 7,637 | 8,897 | 7,933 | 7,039 | 6,553 | 6,036 | 5,705 | 5,803 | 5,462 | 5,243 | 4,390 |

| Outcome | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Absolute and conditional discharge | 4% | 4% | 3% | 3% | 4% | 3% | 2% | 2% | 2% | 2% | 2% |
| Fine | 4% | 4% | 3% | 3% | 4% | 3% | 3% | 3% | 3% | 2% | 3% |
| Community sentence | 41% | 36% | 32% | 27% | 22% | 23% | 20% | 19% | 21% | 22% | 18% |
| Suspended sentence | 13% | 13% | 14% | 17% | 18% | 20% | 21% | 21% | 19% | 17% | 20% |
| Immediate custody | 36% | 41% | 45% | 45% | 46% | 48% | 52% | 54% | 53% | 55% | 55% |
| Otherwise dealt with ³ | 2% | 2% | 3% | 5% | 6% | 2% | 1% | 1% | 2% | 2% | 2% |
| Total | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

2) In August 2011, riots occurred in London and other major cities across England and Wales. Around 50 per cent of the people arrested in connection with the riots were charged with burglary offences. Around 670 offenders sentenced for non-domestic burglary and 60 offenders sentenced for domestic burglary included in these data tables for 2011 and 2012 were sentenced for offences relating to the riots. Sentencing trends for these cases and for others dealt with around the same time may have been affected by the severity of the riots, and so users should bear this in mind when interpreting data from around this period.

3) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.

Table 1.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for non-domestic burglary, 2010-2020²[Index](#)

| ACSL (months) ^{3,4} | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--|------|------|------|------|------|------|------|------|------|------|------|
| Mean | 8.5 | 9.0 | 9.4 | 8.5 | 9.2 | 9.8 | 10.0 | 9.4 | 9.9 | 11.3 | 10.6 |
| Median | 4.0 | 4.2 | 4.7 | 4.2 | 4.2 | 5.1 | 4.7 | 4.7 | 4.7 | 5.0 | 5.6 |
| Indeterminates as percentage of custodial sentences ^{5,6} | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |

Source: Court Proceedings Database, Ministry of Justice

Notes:

- 1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.
- 2) In August 2011, riots occurred in London and other major cities across England and Wales. Around 50 per cent of the people arrested in connection with the riots were charged with burglary offences. Around 670 offenders sentenced for non-domestic burglary and 60 offenders sentenced for domestic burglary included in these data tables for 2011 and 2012 were sentenced for offences relating to the riots. Sentencing trends for these cases and for others dealt with around the same time may have been affected by the severity of the riots, and so users should bear this in mind when interpreting data from around this period.
- 3) Excludes life and indeterminate sentences.
- 4) Excludes two cases of non-domestic burglary over the period 2010-2020 where the data suggested that the sentence was above the statutory maximum for this offence (10 years' custody).
- 5) This is calculated as the number of offenders given an indeterminate custodial sentence, out of the number of offenders given a sentence of immediate custody.
- 6) For 2010-2012, the indeterminate sentence figures include the sentences of Imprisonment for Public Protection (IPP) and Extended Sentences for Public Protection (EPP). These sentences were introduced in 2005 and abolished in 2012.

Table 1.4: Sentence lengths received by adult offenders sentenced to immediate custody for non-domestic burglary, 2010-2020¹

[Index](#)

| Sentence length (years)^{2,3} | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Less than 1 year | 2,282 | 2,828 | 2,777 | 2,587 | 2,352 | 2,238 | 2,263 | 2,413 | 2,203 | 2,090 | 1,786 |
| 1 to 2 | 247 | 568 | 543 | 352 | 413 | 412 | 434 | 422 | 399 | 438 | 377 |
| 2 to 3 | 125 | 149 | 159 | 128 | 138 | 160 | 175 | 188 | 200 | 211 | 134 |
| 3 to 4 | 39 | 47 | 65 | 46 | 71 | 63 | 57 | 50 | 65 | 66 | 45 |
| 4 to 5 | 26 | 28 | 17 | 22 | 15 | 25 | 25 | 22 | 17 | 37 | 21 |
| Greater than 5 years | 17 | 19 | 20 | 15 | 15 | 13 | 26 | 14 | 12 | 39 | 35 |
| Total | 2,736 | 3,639 | 3,581 | 3,150 | 3,004 | 2,911 | 2,980 | 3,109 | 2,896 | 2,881 | 2,398 |

| Sentence length (years)^{2,3} | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Less than 1 year | 83% | 78% | 78% | 82% | 78% | 77% | 76% | 78% | 76% | 73% | 74% |
| 1 to 2 | 9% | 16% | 15% | 11% | 14% | 14% | 15% | 14% | 14% | 15% | 16% |
| 2 to 3 | 5% | 4% | 4% | 4% | 5% | 5% | 6% | 6% | 7% | 7% | 6% |
| 3 to 4 | 1% | 1% | 2% | 1% | 2% | 2% | 2% | 2% | 2% | 2% | 2% |
| 4 to 5 | 1% | 1% | 0% | 1% | 0% | 1% | 1% | 1% | 1% | 1% | 1% |
| Greater than 5 years | 1% | 1% | 1% | 0% | 0% | 0% | 1% | 0% | 0% | 1% | 1% |
| Total | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

2) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 1 year' includes sentence lengths less than or equal to 1 year, and '1 to 2 years' includes sentence lengths over 1 year, and up to and including 2 years.

3) Excludes two cases of non-domestic burglary over the period 2010-2020 where the data suggested that the sentence was above the statutory maximum for this offence (10 years' custody).

Table 2.1: Number of adult offenders sentenced for domestic burglary, all courts, 2010-2020²

[Index](#)

| Court | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--------------------|---------------|---------------|---------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Magistrates' court | 2,237 | 2,322 | 1,904 | 1,508 | 1,256 | 1,035 | 989 | 921 | 720 | 598 | 462 |
| Crown Court | 8,272 | 8,799 | 8,375 | 8,183 | 7,500 | 6,370 | 5,261 | 4,915 | 4,400 | 4,053 | 3,229 |
| Total | 10,509 | 11,121 | 10,279 | 9,691 | 8,756 | 7,405 | 6,250 | 5,836 | 5,120 | 4,651 | 3,691 |

| Court | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Magistrates' court | 21% | 21% | 19% | 16% | 14% | 14% | 16% | 16% | 14% | 13% | 13% |
| Crown Court | 79% | 79% | 81% | 84% | 86% | 86% | 84% | 84% | 86% | 87% | 87% |
| Total | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

2) In August 2011, riots occurred in London and other major cities across England and Wales. Around 50 per cent of the people arrested in connection with the riots were charged with burglary offences. Around 670 offenders sentenced for non-domestic burglary and 60 offenders sentenced for domestic burglary included in these data tables 2011 and 2012 were sentenced for offences relating to the riots. Sentencing trends for these cases and for others dealt with around the same time may have been affected the severity of the riots, and so users should bear this in mind when interpreting data from around this period.

Table 2.2: Number and proportion of adult offenders sentenced for domestic burglary, by sentence outcome, 2010-2020¹

[Index](#)

| Outcome | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|------------------------------------|---------------|---------------|---------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Absolute and conditional discharge | 103 | 82 | 57 | 46 | 59 | 48 | 37 | 35 | 32 | 30 | 16 |
| Fine | 44 | 32 | 34 | 38 | 41 | 38 | 21 | 18 | 18 | 16 | 10 |
| Community sentence | 2,116 | 2,012 | 1,649 | 1,181 | 895 | 740 | 529 | 451 | 459 | 423 | 317 |
| Suspended sentence | 1,571 | 1,563 | 1,497 | 1,547 | 1,524 | 1,352 | 962 | 805 | 653 | 546 | 513 |
| Immediate custody | 6,575 | 7,337 | 6,940 | 6,737 | 6,086 | 5,149 | 4,637 | 4,454 | 3,876 | 3,563 | 2,770 |
| Otherwise dealt with ² | 100 | 95 | 102 | 142 | 151 | 78 | 64 | 73 | 82 | 73 | 65 |
| Total | 10,509 | 11,121 | 10,279 | 9,691 | 8,756 | 7,405 | 6,250 | 5,836 | 5,120 | 4,651 | 3,691 |

| Outcome | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Absolute and conditional discharge | 1% | 1% | 1% | 0% | 1% | 1% | 1% | 1% | 1% | 1% | 0% |
| Fine | 0% | 0% | 0% | 0% | 0% | 1% | 0% | 0% | 0% | 0% | 0% |
| Community sentence | 20% | 18% | 16% | 12% | 10% | 10% | 8% | 8% | 9% | 9% | 9% |
| Suspended sentence | 15% | 14% | 15% | 16% | 17% | 18% | 15% | 14% | 13% | 12% | 14% |
| Immediate custody | 63% | 66% | 68% | 70% | 70% | 70% | 74% | 76% | 76% | 77% | 75% |
| Otherwise dealt with ² | 1% | 1% | 1% | 1% | 2% | 1% | 1% | 1% | 2% | 2% | 2% |
| Total | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

2) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.

Table 2.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for domestic burglary, 2010-2020²[Index](#)

| ACSL (years) ³ | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--|------|------|------|------|------|------|------|------|------|------|------|
| Mean | 1.9 | 1.9 | 1.9 | 2.0 | 2.1 | 2.2 | 2.2 | 2.3 | 2.3 | 2.4 | 2.4 |
| Median | 1.7 | 1.7 | 1.7 | 2.0 | 2.0 | 2.2 | 2.3 | 2.4 | 2.4 | 2.4 | 2.4 |
| Indeterminates as percentage of custodial sentences ^{4,5} | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

2) In August 2011, riots occurred in London and other major cities across England and Wales. Around 50 per cent of the people arrested in connection with the riots were charged with burglary offences. Around 670 offenders sentenced for non-domestic burglary and 60 offenders sentenced for domestic burglary included in these data tables for 2011 and 2012 were sentenced for offences relating to the riots. Sentencing trends for these cases and for others dealt with around the same time may have been affected by the severity of the riots, and so users should bear this in mind when interpreting data from around this period.

3) Excludes life and indeterminate sentences. Excludes two cases of domestic burglary over the period 2010-2020 where the data suggested that the sentence was above the statutory maximum for this offence (14 years' custody).

4) This is calculated as the number of offenders given an indeterminate custodial sentence, out of the number of offenders given a sentence of immediate custody.

5) For 2010-2012, the indeterminate sentence figures include the sentences of Imprisonment for Public Protection (IPP) and Extended Sentences for Public Protection (EPP). These sentences were introduced in 2005 and abolished in 2012.

Table 2.4: Sentence lengths received by adult offenders sentenced to immediate custody for domestic burglary, 2010-2020¹

[Index](#)

| Sentence length (years)^{2,3} | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Less than 1 year | 2,120 | 2,408 | 2,209 | 1,968 | 1,687 | 1,347 | 1,187 | 1,041 | 848 | 760 | 637 |
| 1 to 2 | 1,958 | 2,109 | 1,898 | 1,762 | 1,558 | 1,214 | 1,095 | 1,018 | 893 | 778 | 559 |
| 2 to 3 | 1,699 | 1,854 | 1,898 | 2,037 | 1,858 | 1,635 | 1,482 | 1,476 | 1,265 | 1,218 | 961 |
| 3 to 4 | 553 | 679 | 651 | 690 | 652 | 605 | 572 | 611 | 536 | 490 | 372 |
| 4 to 5 | 143 | 170 | 179 | 175 | 183 | 192 | 164 | 185 | 180 | 169 | 131 |
| 5 to 6 | 61 | 73 | 65 | 55 | 87 | 84 | 83 | 76 | 95 | 79 | 53 |
| Greater than 6 years | 41 | 44 | 40 | 50 | 61 | 72 | 54 | 46 | 58 | 69 | 57 |
| Total | 6,575 | 7,337 | 6,940 | 6,737 | 6,086 | 5,149 | 4,637 | 4,453 | 3,875 | 3,563 | 2,770 |

| Sentence length (years)^{2,3} | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Less than 1 year | 32% | 33% | 32% | 29% | 28% | 26% | 26% | 23% | 22% | 21% | 23% |
| 1 to 2 | 30% | 29% | 27% | 26% | 26% | 24% | 24% | 23% | 23% | 22% | 20% |
| 2 to 3 | 26% | 25% | 27% | 30% | 31% | 32% | 32% | 33% | 33% | 34% | 35% |
| 3 to 4 | 8% | 9% | 9% | 10% | 11% | 12% | 12% | 14% | 14% | 14% | 13% |
| 4 to 5 | 2% | 2% | 3% | 3% | 3% | 4% | 4% | 4% | 5% | 5% | 5% |
| 5 to 6 | 1% | 1% | 1% | 1% | 1% | 2% | 2% | 2% | 2% | 2% | 2% |
| Greater than 6 years | 1% | 1% | 1% | 1% | 1% | 1% | 1% | 1% | 1% | 2% | 2% |
| Total | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

2) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 1 year' includes sentence lengths less than or equal to 1 year, and '1 to 2' includes sentence lengths over 1 year, and up to and including 2 years.

3) Excludes two cases of domestic burglary over the period 2010-2020 where the data suggested that the sentence was above the statutory maximum for this offence (14 years' custody).

Table 3.1: Number of adult offenders sentenced for aggravated burglary, all courts, 2010-2020²[Index](#)

| Court | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| Crown.Court | 309 | 318 | 303 | 257 | 227 | 217 | 193 | 200 | 170 | 190 | 196 |
| Total | 309 | 318 | 303 | 257 | 227 | 217 | 193 | 200 | 170 | 190 | 196 |

Source: Court Proceedings Database, Ministry of Justice

Notes:

- 1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.
- 2) Figures shown here differ from those published by the MoJ, as there are seven aggravated burglary cases in the CPD between 2010-2020 which indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

Table 3.2: Number and proportion of adult offenders sentenced for aggravated burglary, by sentence outcome, 2010-2020

[Index](#)

| Outcome | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|------------------------------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| Absolute and conditional discharge | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Fine | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| Community sentence | 11 | 4 | 3 | 0 | 3 | 1 | 0 | 2 | 1 | 0 | 3 |
| Suspended sentence | 15 | 8 | 3 | 4 | 2 | 6 | 2 | 2 | 1 | 0 | 7 |
| Immediate custody | 278 | 302 | 293 | 251 | 217 | 199 | 179 | 183 | 159 | 173 | 185 |
| Otherwise dealt with ³ | 5 | 4 | 4 | 2 | 5 | 10 | 12 | 13 | 9 | 17 | 1 |
| Total | 309 | 318 | 303 | 257 | 227 | 217 | 193 | 200 | 170 | 190 | 196 |

| Outcome | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Absolute and conditional discharge | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% |
| Fine | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% |
| Community sentence | 4% | 1% | 1% | 0% | 1% | 0% | 0% | 1% | 1% | 0% | 2% |
| Suspended sentence | 5% | 3% | 1% | 2% | 1% | 3% | 1% | 1% | 1% | 0% | 4% |
| Immediate custody | 90% | 95% | 97% | 98% | 96% | 92% | 93% | 92% | 94% | 91% | 94% |
| Otherwise dealt with ³ | 2% | 1% | 1% | 1% | 2% | 5% | 6% | 7% | 5% | 9% | 1% |
| Total | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

2) Figures shown here differ from those published by the MoJ, as there are seven aggravated burglary case in the CPD between 2009-2019 which indicates that the offender was sentenced in a magistrates' court. These case has been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

3) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.

Table 3.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for aggravated burglary, 2010-2020

[Index](#)

| ACSL (years) ² | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--|------|------|------|------|-------|------|------|------|------|------|------|
| Mean | 4.8 | 4.9 | 6.2 | 6.7 | 6.5 | 8.0 | 7.3 | 7.7 | 8.1 | 7.5 | 7.2 |
| Median | 4.0 | 4.7 | 6.0 | 6.7 | 6.1 | 8.0 | 7.0 | 7.5 | 8.0 | 7.5 | 7.3 |
| Indeterminates as percentage of custodial sentences ^{3,4} | 9% | 8% | 8% | 1% | <0.5% | 1% | 0% | 0% | 0% | 1% | 0% |

Source: Court Proceedings Database, Ministry of Justice

Notes:

- 1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.
- 2) Excludes life and indeterminate sentences.
- 3) This is calculated as the number of offenders given an indeterminate custodial sentence, out of the number of offenders given a sentence of immediate custody.
- 4) For 2010-2012, the indeterminate sentence figures include the sentences of Imprisonment for Public Protection (IPP) and Extended Sentences for Public Protection (EPP). These sentences were introduced in 2005 and abolished in 2012.
- 5) The statutory maximum sentence for this offence is life imprisonment.

Table 3.4: Sentence lengths received by adult offenders sentenced to immediate custody for aggravated burglary, 2010-2020¹

[Index](#)

| Sentence length (years)^{2,3} | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| Less than 2 years | 29 | 28 | 12 | 8 | 5 | 3 | 2 | 3 | 1 | 4 | 6 |
| 2 to 4 | 104 | 91 | 50 | 37 | 41 | 20 | 19 | 20 | 17 | 20 | 19 |
| 4 to 6 | 67 | 102 | 94 | 70 | 62 | 37 | 43 | 41 | 30 | 36 | 42 |
| 6 to 8 | 31 | 39 | 69 | 69 | 66 | 49 | 59 | 55 | 45 | 46 | 58 |
| 8 to 10 | 11 | 12 | 29 | 51 | 29 | 51 | 39 | 38 | 36 | 34 | 40 |
| 10 to 12 | 7 | 4 | 15 | 10 | 12 | 25 | 11 | 15 | 18 | 29 | 17 |
| Greater than 12 years | 4 | 3 | 2 | 4 | 1 | 13 | 6 | 11 | 12 | 3 | 3 |
| Indeterminate | 25 | 23 | 22 | 2 | 1 | 1 | 0 | 0 | 0 | 1 | 0 |
| Total | 278 | 302 | 293 | 251 | 217 | 199 | 179 | 183 | 159 | 173 | 185 |

| Sentence length (years)^{2,3} | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Less than 2 years | 10% | 9% | 4% | 3% | 2% | 2% | 1% | 2% | 1% | 2% | 3% |
| 2 to 4 | 37% | 30% | 17% | 15% | 19% | 10% | 11% | 11% | 11% | 12% | 10% |
| 4 to 6 | 24% | 34% | 32% | 28% | 29% | 19% | 24% | 22% | 19% | 21% | 23% |
| 6 to 8 | 11% | 13% | 24% | 27% | 30% | 25% | 33% | 30% | 28% | 27% | 31% |
| 8 to 10 | 4% | 4% | 10% | 20% | 13% | 26% | 22% | 21% | 23% | 20% | 22% |
| 10 to 12 | 3% | 1% | 5% | 4% | 6% | 13% | 6% | 8% | 11% | 17% | 9% |
| Greater than 12 years | 1% | 1% | 1% | 2% | 0% | 7% | 3% | 6% | 8% | 2% | 2% |
| Indeterminate | 9% | 8% | 8% | 1% | 0% | 1% | 0% | 0% | 0% | 1% | 0% |
| Total | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

2) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 2 years' includes sentence lengths less than or equal to 2 years, and '2 to 4' includes sentence lengths over 2 years, and up to and including 4 years.

3) Figures shown here differ from those published by the MoJ, as there are seven aggravated burglary cases in the CPD between 2010-2020 which indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

4) The statutory maximum sentence for this offence is life imprisonment.