

General Theft

Theft Act 1968 (section 1)

Including:

Theft from the person

Theft in a dwelling

Theft in breach of trust

Theft from a motor vehicle

Theft of a motor vehicle

Theft of a pedal bicycle

and all other section 1 Theft Act 1968 offences,
excluding theft from a shop or stall

Triable either way

Maximum: 7 years' custody

Offence range: Discharge – 6 years' custody

STEP ONE

Determining the offence category

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

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

CULPABILITY demonstrated by one or more of the following:

A – High culpability

- A leading role where offending is part of a group activity
- Involvement of others through coercion, intimidation or exploitation
- Breach of a high degree of trust or responsibility
- Sophisticated nature of offence/significant planning
- Theft involving intimidation or the use or threat of force
- Deliberately targeting victim on basis of vulnerability

B – Medium culpability

- A significant role where offending is part of a group activity
- Some degree of planning involved
- Breach of some degree of trust or responsibility
- All other cases where characteristics for categories A or C are not present

C – Lesser culpability

- Performed limited function under direction
- Involved through coercion, intimidation or exploitation
- Little or no planning
- Limited awareness or understanding of offence

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

HARM

Harm is assessed by reference to the **financial loss** that results from the theft **and any significant additional harm** suffered by the victim or others – examples of significant additional harm may include **but are not limited to:**

Items stolen were of substantial value to the loser – regardless of monetary worth
High level of inconvenience caused to the victim or others
Consequential financial harm to victim or others
Emotional distress
Fear/loss of confidence caused by the crime
Risk of or actual injury to persons or damage to property
Impact of theft on a business
Damage to heritage assets
Disruption caused to infrastructure

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

Category 1	Very high value goods stolen (above £100,000) or High value with significant additional harm to the victim or others
Category 2	High value goods stolen (£10,000 to £100,000) and no significant additional harm or Medium value with significant additional harm to the victim or others
Category 3	Medium value goods stolen (£500 to £10,000) and no significant additional harm or Low value with significant additional harm to the victim or others
Category 4	Low value goods stolen (up to £500) and Little or no significant additional harm to the victim or others

See page 6.

STEP TWO

Starting point and category range

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

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

Harm	Culpability		
	A	B	C
Category 1 Adjustment should be made for any significant additional harm factors where very high value goods are stolen.	Starting point 3 years 6 months' custody	Starting point 2 years' custody	Starting point 1 year's custody
	Category range 2 years 6 months' – 6 years' custody	Category range 1 – 3 years 6 months' custody	Category range 26 weeks' – 2 years' custody
Category 2	Starting point 2 years' custody	Starting point 1 year's custody	Starting point High level community order
	Category range 1 – 3 years 6 months' custody	Category range 26 weeks' – 2 years' custody	Category range Low level community order – 36 weeks' custody
Category 3	Starting point 1 year's custody	Starting point High level community order	Starting point Band C fine
	Category range 26 weeks' – 2 years' custody	Category range Low level community order – 36 weeks' custody	Category range Band B fine – Low level community order
Category 4	Starting point High level community order	Starting point Low level community order	Starting point Band B fine
	Category range Medium level community order – 36 weeks' custody	Category range Band C fine – Medium level community order	Category range Discharge – Band C fine

The table above refers to single offences. Where there are multiple offences, consecutive sentences may be appropriate: please refer to the *Offences Taken Into Consideration and Totality* guideline. Where multiple offences are committed in circumstances which justify consecutive sentences, and the total amount stolen is in excess of £1 million, then an aggregate sentence in excess of 7 years may be appropriate.

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

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

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

Factors increasing seriousness	Factors reducing seriousness or reflecting personal mitigation
<i>Statutory aggravating factors</i>	No previous convictions or no relevant/recent convictions
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	Remorse, particularly where evidenced by voluntary reparation to the victim
Offence committed whilst on bail	Good character and/or exemplary conduct
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	Serious medical condition requiring urgent, intensive or long-term treatment
<i>Other aggravating factors</i>	Age and/or lack of maturity where it affects the responsibility of the offender
Stealing goods to order	Mental disorder or learning disability
Steps taken to prevent the victim reporting or obtaining assistance and/or from assisting or supporting the prosecution	Sole or primary carer for dependent relatives
Offender motivated by intention to cause harm or out of revenge	Determination and/or demonstration of steps having been taken to address addiction or offending behaviour
Offence committed over sustained period of time	Inappropriate degree of trust or responsibility
Attempts to conceal/dispose of evidence	
Failure to comply with current court orders	
Offence committed on licence	
Offences taken into consideration	
Blame wrongly placed on others	
Established evidence of community/wider impact (for issues other than prevalence)	
Prevalence – see below	

Prevalence

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

It is essential that the court before taking account of prevalence:

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

STEP THREE**Consider any factors which indicate a reduction, such as assistance to the prosecution**

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

STEP FOUR**Reduction for guilty pleas**

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

STEP FIVE**Totality principle**

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the *Offences Taken into Consideration and Totality* guideline.

STEP SIX**Confiscation, compensation and ancillary orders**

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

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

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

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

STEP SEVEN**Reasons**

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

STEP EIGHT**Consideration for time spent on bail**

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