

Domestic Burglary (Theft Act 1968, Section 9)

Rachel is 19 and in her first term at University. She lives in university halls of residence, having never lived away from home before.

She sees a neighbouring student has left her bedroom door open. Rachel enters the room and steals £35 cash which is lying on the study table and a portable TV, which she later sells to another student for £50.

She is seen on CCTV and the university authorities report the matter to the police. Rachel co-operates fully with the police admitting what she has done immediately. She pleads guilty at her first appearance at the magistrates' court.

She has no previous convictions.

Step one

The guideline for domestic burglary applies.

In this case, it is likely that the court will find that the harm caused is at the lower end of the spectrum as the property taken was not of high value – either economically or personally and no damage was caused to the property.

In terms of culpability, the offence was committed in a moment of impulse on seeing an open door and the court is likely to find that she has lower culpability.

As there is lesser harm and lower culpability this is a category three offence. This means that there is a range of sentences between a low level community order and 26 weeks' custody. The starting point proposed is a high level community order.

Step two

There are no aggravating factors.

In terms of factors reducing seriousness, there are no previous convictions. The court will want to consider whether Rachel's age (19) and/or lack of maturity (possibly evidenced by it being her first time away from home) have affected her responsibility. It is likely to find that these reduce her responsibility and should make a downward adjustment from the starting point to reflect this. It will be for the court to decide the extent of the adjustment but it may feel that a reduction in the level of the community order from high to medium may be appropriate. It may also consider that part of the order should focus on supervision as well as an unpaid work requirement.

Step three

There are no other factors requiring a reduction in sentence.

Step four

There is a guilty plea at the earliest opportunity which should result in a reduction in the sentence. It is likely the court will consider the purpose of the community order to be mainly rehabilitative so will carefully need to consider how to achieve this whilst reflecting the credit for the early guilty plea.

The likely sentence is a 12 month community order with the following requirements:

1. Supervision Order;
2. Unpaid work of 80 hours.

Step five

Dangerousness is not applicable here.

Step six

There is a single offence being sentenced and therefore this step does not apply.

Step seven

The court will want to consider whether it should make a compensation order but will note the defendant's limited means.

Step eight

The court should set out the reasons for its sentence.

Step nine

The defendant has been on unconditional bail so no adjustment for remand time is required.

Non-domestic burglary (Theft Act 1968, section 9)

Brian is a car mechanic aged 26. He has an argument with his boss about his punctuality and is sacked on the spot. Brian feels he has been treated very unfairly. After consuming a large amount of alcohol, he passes the workshop that night which is on his route home. He becomes angry at his treatment by his employer, kicks the door in, breaking the door off the hinges, and steals a box of tools worth £1000. He urinates on the floor of the workshop.

The next day his boss reports the matter to the police, telling them about the argument with Brian. The police search Brian's house and find the box of tools which are returned to the employer undamaged.

Brian makes full admissions about his behaviour to the police and pleads guilty at the first appearance at the magistrates' court. By the time he appears before the court, he has written a letter of apology to his former boss.

Brian has one previous conviction for threatening words and behaviour from 3 years ago for which he received a fine.

Step one

The guideline for non-domestic burglary applies in this case.

The court is likely to find that there is greater harm because of the soiling to the property. It is likely to conclude that there are no 'lesser harm' factors. There are no factors indicating either higher or lower culpability.

The case therefore does not fall squarely into any particular category. The court will need to make an overall assessment of the case to determine the appropriate offence category. In this case, the court is likely to conclude that it is closest to a category 2 offence as there is greater harm. This has a starting point of 18 weeks custody with a range between a low level community order and 51 weeks' custody.

Step two

The defendant has previous convictions but they are neither relevant nor recent so are likely to be given little if any weight by the court. There is an aggravating factor in that the defendant was acting under the influence of alcohol in the commission of the offence.

The defendant has expressed genuine remorse as demonstrated by writing to his former employer to apologise when there was no requirement for him to do this.

In balancing the aggravating and mitigating factors, the court is likely to conclude that the mitigating factors should carry more weight and to reduce the sentence from the starting point to one of 12 weeks.

Step three

There are no other factors requiring a reduction in sentence.

Step four

There is a guilty plea at the earliest opportunity which will result in a one third reduction in the sentence.

This would reduce the sentence to one of 8 weeks.

Step five

There is no issue of dangerousness.

Step six

There is a single offence being sentenced; therefore, this step does not apply.

Step seven

The court will want to consider whether it should make a compensation order but will note the defendant is no longer working.

Step eight

The court should set out the reasons for its sentence.

Step nine

The defendant has been on unconditional bail.