

We want to hear what you think
about sentencing for burglary



An easyread version of
Burglary Offences Guideline
Public Consultation
May 2011

www.sentencingcouncil.org.uk

Some words in this paper may be hard to understand.

We have written these words in **bold blue** text and have put a list of these words on page 9.



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We want to hear your views..... 2



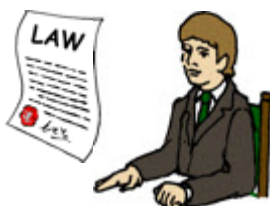
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What is the Sentencing Council?

Sentencing
Council



The **Sentencing Council** for England and Wales is **independent**.

Independent means that we are not part of government or anyone else.



We make sure that courts in one part of the country treat people the same as courts in a different part of the country.



Our job is to help the public understand how the law courts work.

We want to hear your views



We want to know what you think about the way the courts should treat burglars and we have some questions to ask you about this.



In this paper we ask you some questions about this.

Please send your answers to:



Isabel Sutcliffe
Office of the Sentencing Council
Steel House, 11 Tothill Street
London
SW1 9LJ



Or email:

consultation@sentencingcouncil.gsi.gov.uk

If you want to find out more, there is a longer consultation paper at:



www.sentencingcouncil.org.uk



We are also talking to people face-to-face about this. To find out when and where email:



info@sentencingcouncil.gsi.gov.uk



We plan to list the names of people who give us their views in our final report.



If you do not want your name included please get in touch with us first.

August 2011						
Mon	Tue	Wed	Fri	Sat	Sun	
1	2	4	5	6	7	
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We need to hear from you by **Thursday, 4th August 2011** at the latest.

What is burglary?



A burglar is someone who goes into a building without permission, and:



- steals something
- hurts someone
- or damages the building



or, they are planning to do any of those things.

Under the law there are 3 main types of burglary:



1. Domestic burglary

This is when a burglar goes into a place where people live.

It could be:



- their house
- flat
- caravan
- or houseboat.



This includes outhouses and garages if they are linked to a house.

2. Non-domestic burglary

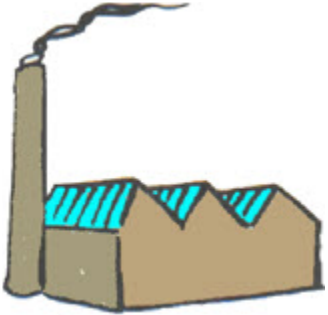
This is when a burglar goes into a place that people do not live in. This could be:



- a shop



- an office



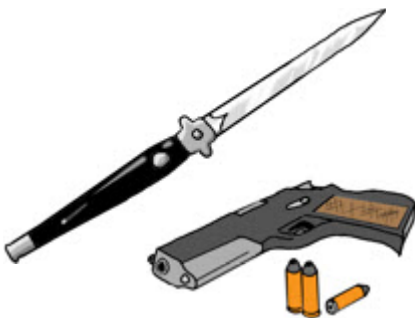
- a large warehouse



- a garden shed.

3. Aggravated burglary

This is when a burglar has a weapon. It could be a weapon they took with them or one they found in the building.



Why are we looking at burglary?



We know that burglary is serious and can have a big effect on victims.



The number of burglaries has gone down a lot over the last few years.



But many people still worry that it might happen to them.



We have written a guideline and want to find out what people think about what we have written.



We want to find out:

- what do people think are the things that make a burglary more or less serious?
- what other things should courts think about when they are deciding on a sentence for burglary?





- what is the right sentence for each different type of burglary?



- is there anything else you think courts should think about?



Once we have heard what people think we will finish our guidelines. These will help the courts make sure burglars who did the same sort of crime get treated in the same way.



These will be used in all the adult courts across England and Wales.

Deciding how serious burglary is



We want to know what you think of the guideline we have written for the courts.

They should help them decide how serious each burglary is and what the right sentence should be.

Step1 What the courts should think about

The court must first think about how much **harm** the burglary caused. This means how much:

- damage
- injury, and
- loss.



Burglary can have a big effect on victims and leave them feeling unsafe in their own home.

Here are some of the things that cause more harm:



- theft or damage that has a big effect on a victim because they lost a lot, or because what was stolen meant a lot to them



- damaging someone's things



- if the victim is at home, or comes home, when the burglar is there



- if the victim is hurt, or threatened.

Here are some of the things that a court might see as causing less harm:



- if nothing is stolen or if the stolen things do not have any special meaning or are not worth much



- if no damage is done and nothing is disturbed.



How much is the burglar to blame?

The court must decide if a burglar really meant to cause harm.



Most burglaries happen because they think a building looks easy to burgle. Perhaps it has an open window, or nobody is in.



But a burglar is more to blame if they chose someone because:

- they were old or disabled



- of their race or religion



- they were gay or lesbian



- of their age, sex, or because they were transgender.



Or if they had put a lot of thought into the burglary:

- a lot of planning went into the burglary



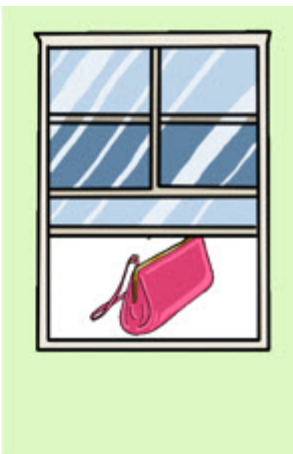
- they carried a knife or other weapon



- they had tools for a burglary or a vehicle to take things away in



- they were in a gang or group.



What makes a burglar less to blame?

- if the burglary was not planned and they did not go right in to someone's house (for example, stealing a purse through a window)



- if the burglar had been talked or pushed into it by others in a gang or group



- if the burglar had a mental illness or a learning disability that was linked to him or her doing the burglary.



Question 1

When it comes to domestic burglary, do you agree with the 2 lists above that look at blame?

If not, please tell us what on the lists you do not agree with.



How the courts decide on a sentence for a burglar

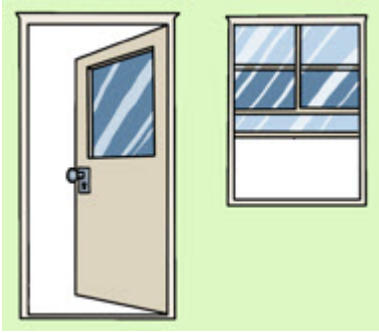
When courts are looking at what a burglar has done, they look at them in 3 different categories or groups.



This is so that they can decide the right sentence for each case.



Category 1 This is the most serious category. It means more harm was caused and the burglar was more to blame.



Category 2 is when more harm was caused but the burglar was less to blame, or less harm was caused but the burglar was more to blame.



Category 3 is when less harm was caused and the burglar was less to blame.



Step 2 Other things to think about when it comes to sentencing

Each of the categories above gives the court an idea of what the sentence should be.



The court then needs to think about other things that might make the burglary more or less serious.

A court will treat a burglary as more serious if:

- the burglar has been found guilty of burglary before (especially if it is not very long ago)

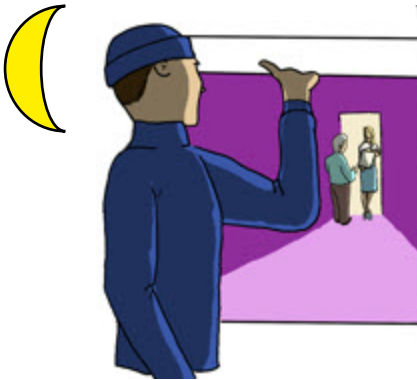




- the burglary is done when they are out on **bail**



- a child was at home, or comes home, while the burglary is happening



- the burglary happened at night



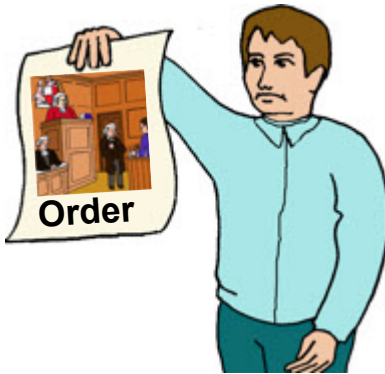
- the burglar tries to stop the victim reporting the burglary or getting help



- the burglary has a big effect on the local community



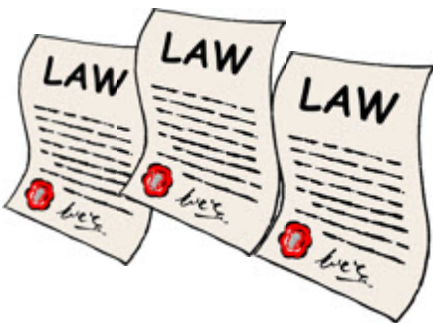
- the burglar has been drinking or taking drugs



- the burglar is **breaking a court order**



- the burglar is **on licence**



- the burglar has broken other laws and admitted them and asked for them to be included in the sentence for the burglary.



A court will treat a burglary as less serious if the burglar:

- has tried to put things right with the victim



- was playing a very small role on the edges of a group or gang



- had not been in trouble before and had not committed burglary before



- shows they are really sorry for what they did



- has done things to help themselves to stop breaking the law or taking drugs



- has a serious illness



- is young and did not fully realise what they were doing



- did the burglary a long time ago



- has a mental illness or learning disability



- is the main carer for a relative who needs them.



Question 2

Do you agree with these reasons for seeing a burglary as more serious or less serious?

If not, please say what you would add or take off the list, and why.



The court will then go through some additional steps to decide what the final sentence will be.



Step 3

The court may decide the sentence should be reduced because the burglar helped the police.



Step 4

The court may also decide to reduce the sentence if the burglar said they had done it early in the court process.



Step 5

If the court decides the burglar is a danger to the public, the court can decide to give an **indeterminate sentence**.

This means the burglar must serve a minimum amount of time in prison before they are considered for release.



Step 6

If the burglar is sentenced for more than one burglary or other offence, the court has to look at how long in prison they face in total.

This is to make sure the total prison sentence is fair.



Step 7

The court should decide whether to make the burglar pay something to the victim for what has been done to them.



Step 8

The court must give reasons for the sentence and explain what effect it will have.



Step 9

If the burglar has been in prison, while waiting for their court case, the court may take that time off the final sentence.



Sentences for burglary



We feel that the length of sentences for burglary that courts give now are reasonable.



Domestic burglary

We believe that in most cases someone who burgles a person's home should go to prison.



But in a few cases a **community sentence** might work better for punishing the burglar and stopping them from burgling houses again.



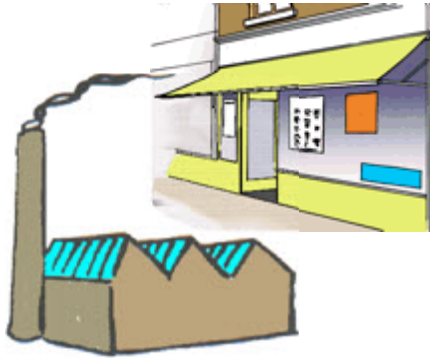
Here are the **starting points** for sentences for domestic burglary:

Offence category	Starting point	Range
Category 1	3 years in prison	From 2 – 6 years in prison
Category 2	1 year in prison	High level community order – 2 years in prison
Category 3	High level community order	Low level community order – 26 weeks in prison



Question 3

Do you agree with these sentences for domestic burglaries?



Non-domestic burglary

The law sees burglary at a shop, office or warehouse as less serious than burgling someone's home.



But sometimes these burglaries can cause serious harm to a victim, and when this happens, and the burglar is to blame, then they should get a longer sentence.



Here are the **starting points** for sentences for non-domestic burglary:

Offence category	Starting point	Range
Category 1	2 years in prison	1-4 years in prison
Category 2	18 weeks in prison	Low level community order – 51 weeks in prison
Category 3	Medium level community order	Band B fine – 18 weeks in prison



Question 4

Do you agree with these sentences for non-domestic burglaries?

Aggravated burglary



This is a very serious offence. It means that not only has someone done a burglary, but they have a weapon as well.



We believe that burglars with a weapon should always go to prison.



And in very serious cases, the prison sentence should be a long one.



Here are the **starting points** for sentences for **aggravated burglary**:

Offence category	Starting point	Range
Category 1	10 years in prison	9-13 years in prison
Category 2	6 years in prison	4-9 years in prison
Category 3	2 years in prison	1-4 years in prison



Question 5

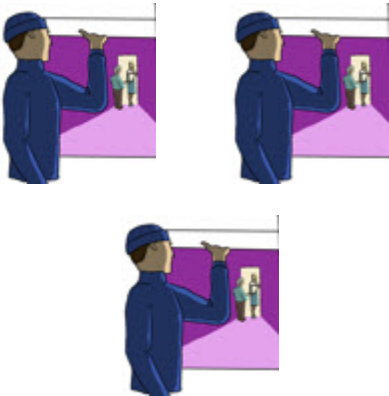
Do you agree with these sentences for **aggravated** burglary?

Other issues

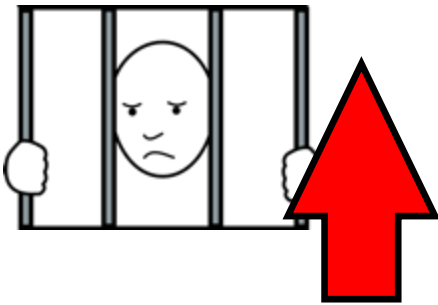


Broken the law before

According to the law, people who have been in trouble before should have a higher sentence.



This is true for some burglars who do it over and over again.



So we are planning to remind the courts in the guidelines that if someone has been found guilty of burglary before, then the sentence should normally be higher.



Question 6

Do you agree this is the right way to treat people who have done burglaries before?



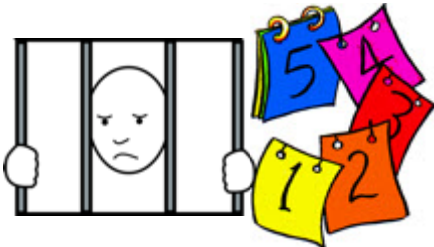
Victims

We have tried to keep in mind what effect a burglary has on victims when we wrote steps 1 and 2 of these guidelines.

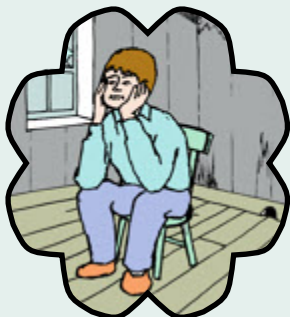


But burglary can effect whole communities.

So in step 2 we have added a factor that looks at this.



After hearing the effect a burglary has on a community a court might feel it was more serious and want to make the sentence longer because of that.



Question 7

Are there any other ways in which you think victims can, or should, be thought about?

Making things fair and equal



Along with these questions we have written a paper showing how we have tried to make things fair and equal for everyone.



Question 8

Can you think of other ways to make things fair and equal for the way we are looking at how burglars are treated by courts?



Question 9

Is there anything else you would like to tell us?

What happens next?



When we have looked at what everyone has said, we will update the guidelines we have written about burglary.

These will then be used by all adult courts in England and Wales.

Thank you for taking the time to tell us what you think.

What some of the words mean

Aggravated burglary	This is when a burglar has a weapon. It could be a weapon they took with them or one they found in the building.
Bail	When a person is waiting to go on trial, the court must decide whether they should be kept in prison or whether they can go home. If they are allowed home, sometimes they might need to go to a police station every day or stay in at night time - this is known as bail.
Breaking a court order	A court can order someone who has committed a crime to do an activity or to stop doing an activity. For example to attend a treatment programme. If the offender does not obey the order the court may punish them for disobeying the order.
Community sentence	A sentence that makes you do certain things in the community instead of going to prison.
Court Order	A court order is a decision made by a judge in court saying that something must happen.
Domestic burglary	This is when a burglar goes into a place where people live.

Found guilty	When the court decides that someone has done the crime.
Indeterminate Sentence	This means the burglar must serve A minimum amount of time in prison before they are considered for release.
Non-domestic burglary	This is when a burglar goes into a place that people do not live in. This could be a shop, an office, a large warehouse or a garden shed.
On licence	<p>When a person is let out of prison, for a time they will have to obey certain rules and requirements. If they commit a new crime in this time, they will be breaking these rules and can be sent back to prison.</p> <p>A court can also decide that the new crime was even more serious because they were breaking these rules.</p>
Probation	Probation is an order made by a court saying what things someone who has broken the law must or must not do. They will get into more trouble if they do not do the things the order says.
Sentence	Something that someone must do because of a crime they have committed. They might need to pay money, go to prison, or have a High Level Community Order.

Sentencing Council

An independent organisation that helps make sure sentencing works the same across all courts, and that the public understand sentencing better.

Starting point

A sentence that is used as an example so a judge can choose the sentence for someone who is guilty of a crime.

