

Research to support the development of a guideline for sentencing theft offences

Introduction

In developing its guidelines, the Sentencing Council conducts a wide range of research exercises. This ensures guidelines are evidence-based and grounded in current practice.

To support the development of a guideline for sentencing theft offences, the Sentencing Council put in place a number of strands of research, based around three phases of guideline development:

- Observational work in magistrates' courts, primarily to obtain information on the value of thefts and to inform the early stages of guideline development (*phase 1; informing the early development of the guideline*);
- Qualitative research to explore views on the consultation version of the guideline, and to explore whether the guideline might affect sentencing practice (*phase 2; exploring the consultation guideline*);
- Quantitative analysis of an exercise to "sentence" theft cases using transcripts of Crown Court sentencing remarks, comparing the responses to this with the sentence imposed by the actual judge (*phase 2; exploring the consultation guideline*);
- Qualitative research to explore views and implications of revised versions of the guideline, following amendments arising from the second phase and from consultation responses (*phase 3; informing the definitive guideline*).

Background

The development of a draft guideline to replace the existing Sentencing Guidelines Council (SGC) theft guideline involved a number of stages: consideration of case law and current sentencing practice; discussions with stakeholders and experts in the area; and original research and analysis. As part of this, a package of social research was put in place to provide evidence on the offence-specific sub-guidelines¹ that were under revision: theft from a shop or stall²; general theft³ and handling stolen goods.

This research was initiated to inform the early development of the guideline, explore issues associated with the draft guideline (issued for consultation in April 2014) and then to look again at some issues that had emerged and that necessitated changes to certain aspects of the guideline.

A number of issues were of interest throughout the research, including:

- The typical value of thefts sentenced in the magistrates' courts;
- Sentencers' reasoning and decision-making regarding theft offences;

¹ Each Sentencing Council guideline usually includes a number of offence-specific sub-guidelines under the umbrella category of an offence type, such as theft or robbery.

² Referred to as the shop theft guideline.

³ Covering theft from the person, theft in a dwelling, theft in breach of trust, theft from a motor vehicle, theft of pedal cycles, and all other s1 1968 Theft Act offences, excluding theft from a shop or stall.

- Whether sentencers experienced any difficulties in applying the draft guidelines;
- Views on draft versions of the sub-guidelines, and whether they may potentially produce any changes to sentencing practice⁴.

Approach

Phase 1: informing the early development of the guideline

Observational research was conducted in three London magistrates' courts in October and November 2013. This was undertaken to provide descriptive information on low level theft offences seen in the magistrates' courts and to collect information that is not available elsewhere (e.g. the value involved in the thefts).

All cases were observed by researchers who attended magistrates' courts during a specified period and recorded the details of any theft offences coming before the magistrates on that occasion. In total, information on 42 cases was recorded using a short data collection schedule⁵. In addition to noting the general details of the offence, details such as the property stolen, the value of the theft, issues relating to the defendant (e.g. if they had previous convictions), the prosecution and defence arguments, any guilty plea, whether the defendant was sentenced and if so, what their sentence was, were also noted.

Phase 2: exploring the consultation guideline⁶

Between March and May 2014, **semi-structured face-to-face interviews** were conducted with magistrates, district judges and Crown Court judges. In total, 43 interviews (with 48 sentencers) were undertaken (27 magistrates, 8 district judges and 13 Crown Court judges) across all seven court regional areas. Ten offence scenarios⁷ were used, to explore issues relating to the shop theft, general theft and handling stolen goods sub-guidelines. Annex A provides details of these scenarios.

Sentencers were recruited to participate in this exercise via a research "pool" held by the Office of the Sentencing Council. Interviews were held at a location convenient to the participant, usually a court building, and involved asking the participant to consider two offence scenarios and to sentence these using both the current SGC sentencing guideline and then the draft Sentencing Council guideline. In doing this, it was possible to gauge how participants used the guideline and what kinds of sentence they imposed. Participants were also asked for any views they had on the guideline – for example on the content, format and structure.

In addition to these interviews, an exercise to "sentence" a range of Crown Court cases was undertaken, using **transcripts** of judges' sentencing remarks. Those participating comprised members of the Sentencing Council, as well as those in the Office of the Sentencing Council. A summary of the case, along with the transcript and a data collection schedule was provided to the "sentencer" and they were asked to sentence the case using the step-by-step process in the draft guideline, noting the sentence outcome and any

⁴ "The aim of the guideline is to ensure sentences are proportionate to the offence committed and in relation to other offences...The approach taken in developing the draft guideline aims to regularise practice rather than alter it substantially" (Consultation Guideline, 2014).

⁵ Copies of data collection schedules and topic guides are available on request.

⁶ The consultation versions of the guidelines can be found at:

<http://www.sentencingcouncil.org.uk/publications/item/theft-offences-consultation/>.

⁷ In one, a revised version was later used in order to clarify the role in the offence of one of the offenders and therefore Annex A presents 11 scenarios.

difficulties they found in going through this process. One hundred and two responses to this exercise were used for analysis purposes⁸.

Phase 3: informing the definitive guideline

Phase 2 contributed to changes being made to the guideline; therefore a further round of small-scale **interview research**, based on the approach taken in phase 2, was conducted between November 2014 and January 2015 to explore the implications of these changes. In total, 14 interviews (involving 14 magistrates and one district judge⁹) were conducted to discuss two different amended versions of the shop theft guideline, using two of the same scenarios that were used in phase 2 (scenarios 1a and 1b, see Annex A)¹⁰. This enabled a direct comparison of responses across the two stages to be made, to ascertain whether the issues that were observed in phase 2 had been rectified.

The relevant scenarios were presented in stages in this phase – the first relating to the offence and the second relating to the offender – to gauge whether any particular issue might be contributing more heavily to the sentencing outcome. Participants were therefore asked to indicate what they might give as a sentence based on the details given of the offence, and then again, after having been presented with information on the offender.

Limitations of the research

The research provided some valuable information to support development of the guideline. However, it is acknowledged that there are limitations to the work, which comprised several small-scale exercises that were designed within the context of the resources available. As a result, it should be noted that:

- Sample sizes were relatively small for each phase of the work, and those taking part were largely self-selecting¹¹. This means that the findings cannot be said to be representative of the judiciary as a whole;
- To reduce the burden on any one individual, not all scenarios were considered by all participants. This means that individual scenarios were only considered by a sub-sample of the total;
- The second phase of interviewing included only magistrates and one district judge and shop theft scenarios;
- The exercise involving court transcripts only covered Crown Court cases due to the fact that transcripts are not available in the magistrates' court.

⁸ Of 104 responses.

⁹ One of the magistrate interviews also included a legal advisor.

¹⁰ It was only possible to conduct a small number of interviews at this stage and because the main issue was found to relate to the shop theft guideline it was this guideline that formed the focus of this phase.

¹¹ Although judges from a number of different courts and regions were invited to take part, not all were able to do so.

Key findings¹²

Phase 1: informing the early development of the guideline

This research was designed to provide basic descriptive information to help inform development of the guideline. The exercise yielded the following observations:¹³

- Thirty-two of the defendants were male and ten were female;
- The majority of offences observed (29 of 42) involved shop theft; other offences included employee theft, going equipped for theft, handling stolen goods, theft from the person and theft of a bicycle, although numbers for all of these were very low¹⁴.
- A range of different items were stolen, including mobile phones, clothing, jewellery, cash etc.
- Where known, the value of goods stolen ranged from £4 to £1000¹⁵, with the median value being £135;
- Where known (35 cases), more than three quarters of defendants (28) had previous convictions; four people had previous cautions;
- Thirteen defendants were said in court to have issues with drugs and one with alcohol. In eight cases, it was actually stated that the defendant had no issues of this nature;
- A range of other issues were put forward by defence advocates to contextualise the defendant's situation – these included problems with debt, gambling and employment, mental health issues, relationship break ups and other issues of vulnerability;
- The defendant's means were only stated in 18 cases. Of these, approximately two thirds had no real means (mainly because they were on benefits, but for a small number they were students or relying on family). A third did, however, have paid employment;
- Twenty-two of the defendants were sentenced at the time that the case was observed; sentences were varied and included custody, suspended sentences, fines, community sentences and conditional discharges. Where the sentence handed down was known, five of the male defendants received an immediate custodial sentence, but none of the female defendants did.

Phase 2: exploring the consultation guideline

In the interviews, participants were asked to sentence an offence using both the current SGC guideline as well as the draft Sentencing Council guideline. When the participants' sentences under both guidelines were compared, a number of differences were found, as shown in the table below.

¹² In addition to these key findings, more minor issues, for example relating to the drafting or format of the guideline were also raised. These are not documented here but were fed back into the guideline development process.

¹³ It should be noted that this covers the information that was mentioned in open court. Other factors may apply to some defendants but this was not stated at the time.

¹⁴ Between one and three instances each.

¹⁵ In one offence, the value was £0 as the theft involved cashpoint cards which were then seized by a police officer.

Table 1: Changes in sentencing using the Sentencing Council’s consultation guideline compared to the current guideline

| | Sentenced lower | No change | Sentenced higher | Total |
|--|-----------------|-----------|------------------|-------|
| Shop theft <i>(magistrates’ court scenarios)</i> | 3 | 15 | 6 | 24 |
| General theft <i>(magistrates’ court scenarios)</i> | 2 | 13 | 4 | 19 |
| General theft <i>(Crown Court scenarios)</i> | 0 | 1 | 7 | 8 |
| Handling stolen goods <i>(magistrates’ court scenarios)</i> | 2 | 8 | 5 | 15 |
| Handling stolen goods <i>(Crown Court scenarios¹⁶)</i> | 3 | 3 | 15 | 21 |
| Total | 10 | 40 | 37 | 87 |

Differences emerged between the magistrates’ court and Crown Court scenarios. In the majority of scenarios sentenced by magistrates and district judges, there was no change in the sentence, although some inflationary effect was found in between a fifth and a third of cases. Sentence inflation was, however, most common in the Crown Court scenarios and particularly in relation to the scenarios sentenced using the general theft guideline where seven out of eight participants sentenced the case higher than when they used the current sentencing guideline (scenarios 2c and 2d – see Annex A)¹⁷. Inflation was also marked in the Crown Court handling stolen goods scenarios (scenarios 3c, 3d and 3e¹⁸ - see Annex A).

Changes in sentences for Crown Court offences were also found in the transcript exercise (see table 2). Although around a quarter of sentences were similar to that given by the original sentencing judge, a large proportion were lower and some, particularly for general theft, were higher. Some sentences were up to 40% higher or lower than the original sentencing judge gave (this equated to, on average, a difference of seven months)¹⁹. The offences which were most likely to lead to higher sentences were those involving breach of trust cases.

¹⁶ Two judges did not provide a sentencing outcome and so are not included in these figures.

¹⁷ Note, however, the subsample sizes are small.

¹⁸ Scenario 3e was an amended version of 3d.

¹⁹ Although again it should be noted that sample sizes were low.

Table 2: Comparison of sentences using the Sentencing Council consultation guideline and the sentence given by the original sentencing judge²⁰

| | Sentenced lower | Sentenced similar | Sentenced higher | Total |
|---|-----------------|-------------------|------------------|-------|
| Shop theft <i>(Crown Court)</i> | 9 | 3 | 1 | 13 |
| General theft <i>(Crown Court)</i> | 23 | 16 | 35 | 74 |
| Handling stolen goods <i>(Crown Court)</i> | 7 | 4 | 4 | 15 |
| Total | 39 | 23 | 40 | 102 |

Both the interviews and the transcript exercise also indicated some variation in the sentences given by different participants²¹. In the interviews, this was most marked for scenario 1a – the sentencing of a low level, persistent offender who had stolen low value goods, where sentences ranged from a conditional discharge to three months’ custody, and also included fines and community orders. It should be noted, however, that the variation was observed under both the SGC and Sentencing Council guidelines in the interviews²², suggesting the consultation guideline may be merely perpetuating existing variations in sentencing, rather than creating them.

The in-depth nature of the interviews allowed an understanding of the reasons that led participants to sentence in particular ways; through this it was possible to highlight some issues that might be contributing to participants sentencing in different ways using the two guidelines or when compared to other participants²³.

Culpability assessments

Despite most participants feeling the culpability factors in the draft guideline were the right ones, it was found that when sentencing some scenarios, participants assessed culpability at step 1 of the guideline in differing ways. If this led to placing offences in different categories, then sentencing variation would ensue as different categories have different starting points and ranges. If the differing assessments also led to some participants categorising offences in ways not intended by the Council when drafting the guideline, then this could lead to sentences that were either higher or lower than current sentencing practice. The key areas that tended to lead to differing assessments of culpability were:

1. What constitutes an *opportunistic offence* and *planning*: for some scenarios (e.g. 1a, 2a and 2b – see Annex A), there were different views in the interviews regarding whether the offence could be said to be opportunistic or not, or had involved an element of planning – for example, in relation to 2b, the offence was placed in both lesser culpability and medium culpability:

It's largely opportunistic, there is some planning, but not very sophisticated in the nature of things (magistrate)

²⁰ Again, it should be noted that sample sizes are small.

²¹ This tended to be more marked for the magistrates’ court scenarios.

²² It was only possible to observe this through the interviews as the transcript exercise did not ask participants to sentence using the existing guideline.

²³ Some information on problematic areas also arose through the transcript exercise and so where relevant, these have been highlighted.

Medium culpability on the basis that there has been some planning, because he took bolt cutters (magistrate)

Scenario 1a was also perceived differently in terms of whether the offender had been opportunistic or had planned the offence:

'Opportunistic offence' – I don't really think it is an opportunistic offence. He went in to take the wine (magistrate)

Likelihood is that he needed a drink and went to first available shop – I don't think you could call that planning (district judge)

2. Sentencing breach of trust cases in the general theft sub-guideline: the issue of what is a significant breach of a high degree of trust or responsibility arose, as well as whether all breach of trust cases should be classified as high culpability. One participant in the transcript exercise highlighted this by outlining several different scenarios that might involve a breach of trust:

There may be three types of case: the defendant who deliberately targets the vulnerable victim e.g. the thief who befriends the elderly man and then steals large sums from his savings account by getting the old man to withdraw money and give it to him; the defendant whose victim is vulnerable but cannot be said truly to have been the subject of deliberate targeting; the defendant whose victim is not vulnerable. Strictly the guideline does not distinguish between the second and third types of case (transcript exercise participant)

3. What constitutes closeness in time and place in the handling stolen goods guideline: some participants suggested that this factor should not always lead to placing someone in high culpability and participants appeared to have different concepts of what would constitute closeness in time or place:

Well for example...wake up at 6 am and find the house has been burgled. This defendant is making a phone call [two hours earlier about] one of the stolen phones, so that is very close. It's a matter of judgement isn't it? Within a day or so I would regard that as being closeness. If you're getting to, you know, 4 or 5 days, a week, I think then you're moving away from that (Crown Court judge)

Closeness to the underlying offence...I would say 4 days is close (magistrate)

As part of these discussions, it also became clear that participants had differing concepts of what the role of a handler is (e.g. whether they are involved in a sophisticated pre-planned offence or are more of a facilitator to the actual theft). A small number of participants also felt that some of the culpability factors were in the wrong categories (for example, *offender makes self available for handling* should be in culpability A not B; *offences are committed by offender as part of commercial activity* could be in culpability A, not B; and *seriousness of the underlying offence* should be in culpability, rather than aggravation).

4. What constitutes low value goods acquired for offender's own personal use in the handling stolen goods sub-guideline: participants sentencing the scenarios in the interviews tended to have a different view from that of the Council regarding this point, leading to them placing the offender in a category lower than anticipated on the basis of this interpretation.

5. Number and nature of culpability factors: when sentencing the scenarios, it was also clear that the number of factors within high culpability in the general theft guideline could be problematic. In the consultation guideline, there were ten factors in this category²⁴ (as opposed to two in medium culpability and six in lesser culpability). For some offences, it was therefore clear that a number of factors could place an offence into high culpability, meaning that if an assessment of culpability was made purely on the basis of the number of factors ticked off in each category, some offences may be inappropriately inflated into the top category. There is also the potential that the larger the number of factors in a high category, the more likely it is that at least one factor will be applicable.

In addition, it was felt that some factors in culpability A overlapped in practice - for example, if someone had used deception in the offence or taken *significant steps to avoid detection*, then arguably the factor *sophisticated nature of offence/significant planning* was also relevant.

Harm assessments

In the consultation version of the guideline, the categorisation of harm was a two-stepped process, harm A dealing with an assessment of the value of the theft and harm B covering additional harm suffered by the victim and others. Because of the nature of harm B, it would not be relevant to all offences and so participants could choose whether or not to take account of this when going through the sentencing process.

Participants generally found the initial assessment of harm straightforward; this is likely to be because this assessment focused on the value involved in the theft which is relatively clear-cut. Only one scenario (the handling of a £550 television) led to variation. As £550 was only just into category 3 on this sub-guideline, some participants opted to place this into the lower category 4 of the handling stolen goods guideline.

Where harm B was invoked, this was used to adjust sentences within the range rather than move them up a category²⁵. However, despite consistency in the way harm B was applied, there was some variation in the decision of whether or not to apply it in the first place in some of the scenarios; this related to participants interpreting different harm factors in differing ways²⁶. For example, there were differing opinions over whether the loss of credit cards (scenario 2a in Annex A) could be deemed a "*high level of inconvenience*".

Definitely high level of inconvenience caused (magistrate)

Certainly a high level of inconvenience caused to the victim (district judge)

I did think about it but I made a judgement that although the person had been inconvenienced it wasn't to a high degree. The cards were replaced in under a week (magistrate)

²⁴ A leading role where offending is part of a group activity; involvement of others through coercion, intimidation or exploitation; significant breach of a high degree of trust or responsibility; sophisticated nature of offence/significant planning; offence conducted over sustained period of time; large number of victims; use of deception; theft involving intimidation or the use or threat of force; deliberately targeting victim on basis of vulnerability; significant steps taken to avoid detection and/or conceal identity.

²⁵ Only one participant used harm B to move up a category.

²⁶ The transcript exercise also found some issues with the use of harm B by participants.

Some participants were also confused over the difference between harm B adjustments and aggravation at step 2, something also raised in the transcript exercise. Participants also varied in where they moved to in the sentencing range when they adjusted for harm B.

Other issues

Other issues that may have contributed to participants reaching different sentences included:

1. Adjustments for value

The draft guideline stated that, at step two, an adjustment should be made to the starting point to reflect the value of the theft²⁷; this was in addition to the categorisation in harm A relating to value.

A mixed picture emerged in the interviews, with many participants not explicitly adjusting in this way and some reporting that whether or not they adjusted would depend on the amount involved. Others felt this aspect of the guideline was unclear and confusing and some did not even notice its inclusion.

2. Guideline flexibility

The consultation guideline built in a number of stages at which adjustment to sentences could be made. These have already been highlighted in relation to harm B and value. This flexibility was welcomed, but in practice the overall effect seemed to be to lead to confusion and differing practices regarding the way in which the flexibility was used.

Revising the guidelines

As a result of some of these findings, along with consideration of responses to the consultation, a number of changes were made to the guideline. The main changes addressed the issue of potential inflation for some sentences, when compared with current sentencing practice, and some of the variation in sentences observed. Amendments included:

- Reducing the number of factors within high culpability in the general theft sub-guideline and adding more such factors to medium and lesser culpability. This provided more balance, and helped to address the potential inflationary effect overall of having too many factors in high culpability;
- Within medium culpability in the general theft sub-guideline the factor of *breach of some degree of trust or responsibility* was added to reflect the fact that there are a variety of different types of theft in breach of trust and to avoid inflating sentences for some of these offences;
- Removing references to opportunistic offences in all sub-guidelines to avoid differences in interpretation and thus variation in sentences;
- Amending the high culpability factors in the handling stolen goods sub-guideline to clarify the types of handlers that this category should apply to and to reduce variation in sentences;
- Removing the reference to *low value* in the lesser culpability category of the handling stolen goods sub-guideline;
- Adjusting the approach to harm (two alternative models for discussion were produced at this stage) to address any confusion with the application of harm B or differences in adjusting for value;

²⁷ "Where the value is larger or smaller than the amount on which the starting point is based, this should lead to upward or downward movement as appropriate" (Consultation Guideline, step 2).

- Moving the text about adjustment to the starting point based on value to a more prominent position in the guideline (reflected in model 1 of the revised guideline);
- Adding an extra aggravating and mitigating factor relating to value to one of the new harm models being discussed (reflected in model 2 of the revised guideline).

Phase 3: informing the definitive guideline

Because of concern over the findings on the approach to harm, plus the issue of variation in sentencing observed with some offence scenarios, a further small research exercise to explore these issues was undertaken. As it was the shop theft scenario that seemed to generate the most issues, this offence was the focus of this phase of the work.

Two sets of interviews were conducted to look at two different versions of an amended guideline. This resulted in an additional 14 interviews being conducted.

The two different versions focused on different models for harm:

- Model 1: A two-staged approach (as in the consultation guideline), but instructions to move to the category above when harm B applied (see Annex B);
- Model 1: A single approach to harm which combined elements of both harm A and B from the consultation guideline into three categories (see Annex B). In addition, new aggravating and mitigating factors of high and low value were added.

It was found that both versions of the harm model led to relatively consistent categorisations. However, the first model – the staged approach – was still found to be confusing and complex for some people and adjustments for value were still sometimes overlooked. By contrast, it was clear – and participants also reported – that using the second, single approach, model was easier to apply:

It's structured, it's easy to do (magistrate)

I quite like that...nice and simple...clear, straightforward. You've got the value plus...the victim harm and it's clear (magistrate)

However, some people did feel that including aggravating and mitigating factors relating to value could lead to double counting between step 1 and 2.

As with the first phase of interviews, the scenario involving the low-level persistent offender was still found to produce some variation in sentencing outcomes. However, as the scenario had this time been presented in two stages (firstly the information relating to the offence was presented, and then that relating to the offender), it was possible to gain some insight into participants' rationales for their sentences. This indicated that some of the variation was generated when participants were presented with information on the offender²⁸ and for some, this led to them changing their preliminary views on the sentence that they had based on the initial information about the offence²⁹.

When exploring this with participants, it became clear that the offender information they were given presented them with a dilemma: how to deal with an offender with a large number of previous convictions, for whom all previous sentencing options had failed, but who was only

²⁸ For example, "pre sentence report notes that he had a poor record of compliance with community sentences...he...shows little willingness to accept that he had an alcohol problem or to address his offending behaviour".

²⁹ Where more serious offences were involved the information on the offence tended to outweigh offender information and so this variation was not so marked.

being sentenced for a very minor theft? Different participants had different views on how to deal with such a person, and this led to a flexible approach to sentencing and a variation in outcomes.

This ability to approach some sentences more flexibly was welcomed as it gave the opportunity to take account of individual, diverse and complex needs and any services specific to the local area that might be of use. Participants felt that the consistency of approach that the guideline provided them with was a useful complement to a more individualised approach for some of the lower level offenders:

The guidelines are giving a good grounding for consistency, but there's always going to be [variation], particularly in this scenario because you've got alcoholics, drug offenders...and a lot of it does come down to the personality of the offender (magistrate)

Conclusion

This research provided critical information to help develop and then refine the theft guideline. It highlighted the need to address certain issues – for example the harm model in the consultation version of the guideline and some culpability factors (including the position of those factors in the guideline) to try to address the potential for inflating some sentences. Monitoring and evaluation work once the guideline has been implemented will provide further information on the extent to which the guideline is achieving its aims.

Acknowledgements

My thanks go to all the judges and magistrates who kindly offered their time to take part in this work and who provided some extremely valuable insights into the different versions of the draft guideline. I would also like to thank colleagues in the Office of the Sentencing Council for helping with the observational work in courts, the transcript exercise and some of the face-to-face interviews.

Emma Marshall

Annex A: Scenarios in face-to-face interviews with sentencers

1(a) Theft from a shop – magistrates’ court

B was stopped by security when leaving a supermarket. He had a bottle of wine (priced at £7.99) in his inside coat pocket. He admitted taking it from the shop and leaving without intending to pay for it. The bottle was recovered in a saleable condition.

B, aged 35, has pleaded guilty at the first hearing. He has 20 previous convictions for 37 offences, the majority being theft, but also including drunk and disorderly and driving offences. He served a three month custodial sentence in March 2012 for theft. His most recent conviction was three months ago for theft of alcohol from the same shop as the current offence, for which he received a £100 fine. B is unemployed and owes £345 in fines and compensation which is being recovered from his benefits.

A pre-sentence report notes that he had a poor record of compliance with community sentences. He has a history of alcohol related offending but shows little willingness to accept that he had an alcohol problem or to address his offending behaviour. His risk of re-offending is high. The report is unable to make any firm recommendation in terms of sentencing options.

1(b) Theft from a shop – magistrates’ court

C stole a handbag priced at £350 from a small independent shop. She had asked to see the bag which had been in a locked cabinet and then asked to see another bag from the window display. While the shopkeeper was taking the bag out of the window, C hid the first bag under her coat. The shopkeeper challenged her and C pushed past her and out of the shop. She was arrested after being identified from CCTV. The bag was not recovered.

In a victim personal statement the shopkeeper said that she had found the incident very upsetting and that her business could not support the loss of such a valuable piece of stock. She was struggling to keep the business afloat and support her young family.

C, aged 24, pleaded guilty at the first hearing. She has 10 previous convictions for 16 offences of dishonesty over the past four years, the most recent being theft from a shop two months ago for which she was fined £150. She was the subject of a community order in 2011 for theft and a suspended sentence order in 2012 for a commercial burglary. She is a single parent of a two year old child and claims that she had committed the offence in the hope of raising money to buy Christmas presents for her son.

2(a) Theft from person - magistrates’ court

D, aged 27, pleaded guilty to the theft of a purse containing £100 in cash and several credit and debit cards from the pocket of a 35 year old woman in a busy shopping centre. The victim was unaware of the theft until she tried to pay for some food shopping. She managed to cancel all her cards before any funds were taken but was inconvenienced and embarrassed by being unable to buy her shopping and having to wait a week for replacement cards.

D was arrested trying to use one of the cards. The purse, cash and remaining cards were not recovered. She admitted the offence and said she was sorry and had taken it because she was a heroin addict. D has 10 previous convictions for theft from a shop, the most recent being 9 months earlier for which she was fined £100; she also has two convictions for possession of Class A drugs. She was previously made subject to two different community orders which she completed satisfactorily. A pre-sentence report states that she is now on a

methadone prescription and recommends a community sentence with a drug rehabilitation programme.

The police provided the court with a community impact statement, which asserts that theft from the person was prevalent in this particular shopping locality; reported incidents of 'pick-pocketing' and 'dipping' were three times higher than the national average. There has been a campaign in the local newspaper for a clampdown on such offending.

2(b) Theft of pedal cycle - magistrates' court

E, aged 19, pleaded guilty at the first hearing to theft of a pedal cycle valued at £350. The cycle had been left locked to a stand at a railway station. The owner used it to cycle five miles from home to the station and stated that the loss left him with the choice between an hour and a half walk or a £10 taxi fare each way to get to and from the station. E was identified from CCTV, where he was seen carrying bolt cutters. The cycle was not recovered.

E has two previous convictions, both for possession of a class B drug. He lives with his parents and is about to start a college course in catering. He has no income.

2(c) Theft in breach of trust - Crown Court

F, aged 53, worked as a carer visiting the homes of clients. One of her regular clients 'Z' was an 86 year old woman with limited mobility and mild dementia. Z allowed F to draw money out of the bank using her cash card. F would withdraw £250 each time. When Z's daughter checked her mother's account and noticed the frequent cash withdrawals she challenged F as to where the money had gone. F stated that she had used the money to pay Z's bills and buy her shopping and that if there was any left over she put it in Z's purse. She suggested that the cleaner had taken money from Z's purse. However, it transpired that shortly after each cash withdrawal, F was depositing £100 to £250 into her own savings account. She eventually admitted to taking £18,500 over a period of three years.

Z's daughter provided a victim personal statement in which she said that her mother had been very upset and confused when told that F had been stealing from her and no longer trusted any of her carers. The daughter had been put to great inconvenience, trying to sort out Z's financial affairs.

F entered a guilty plea in the magistrates' court and was committed to the Crown Court for sentence.

F has no previous convictions and is described by her clients as caring and friendly. She expressed remorse and says that she started taking the money when her husband lost his job and they were in financial difficulties and had originally intended to pay it back, but then came to rely on the money. She will lose her job as a result of the conviction.

2(d) Metal theft - Crown Court

G, aged 25, pleaded guilty before magistrates to theft of 100 metres of thick copper cabling and was committed to the Crown Court for sentence. He removed a manhole cover and pulled the cable from ducting from within the manhole cover. It was then attached to a four-wheel drive vehicle, driven by G, who towed the cabling away from the scene with the cable trailing behind him, (presumably intending to drive it to associates who must have been waiting nearby with cutting equipment). Various members of the public called the police to say what they had seen. The police gave chase and G was arrested nearby.

The value of the stolen cable was £7,500. The cost of the damage and repairs came to £21,500. As a result of the theft, more than 400 customers lost their telephone lines. It took engineers three days to rectify the situation.

G has previous convictions for robbery, burglary and theft, handling, assault, aggravated vehicle taking, criminal damage and various road traffic offences. The longest custodial sentence he has previously received was 18 months' detention in a young offender institution — a sentence was passed for burglary in 2007.

3(a) Handling – magistrates' court

H, aged 32, was arrested after he offered to sell a watch for £75 to an off duty police officer in a pub. The watch was identified as one of four stolen earlier that day from a department store by another male. H declined to say how he had acquired the watch but accepted that he knew it was stolen. The watch was priced at £250. His home was searched but no further property recovered.

He pleaded guilty at the first hearing. He has two previous convictions for theft, the most recent being in 2012 for which he was fined £200. He also has a number of older convictions for criminal damage and public order offences. He is working part time and states that he got involved in selling the watch to supplement his income.

3(b) Handling – magistrates' court

J, aged 65, was arrested when a stolen television was found by police searching his home (for an unrelated reason). The television, which was in use, had been stolen in a commercial burglary two weeks earlier; it was valued at £550. J pleaded guilty at the first hearing to handling stolen goods on the basis that he had bought the television from a man in a pub for £75, knowing that it must have been stolen.

J has no recent previous convictions; he has three minor convictions from the 1980s.

3(c) Handling - Crown Court

K, aged 57, with no previous convictions, was convicted by jury of handling stolen goods. Through his shipping agency he arranged for containers to transport four stolen cars valued at £200,000 to Brazil. The cars had been stolen when keys had been taken in domestic burglaries. They had been re-sprayed and given false number plates. K did not cooperate with the investigation and continues to deny any knowledge of the source of the cars.

3(d) Handling - Crown Court

L, aged 42, and M, aged 36, pleaded guilty to handling stolen computer equipment. L ran a computer supply and repair business which ran into financial difficulties. He was approached by M who offered to supply him with cut price components. L accepted that he knew from the outset that this was stolen property. Over a period of 8 months M supplied L with components from a number of sources, some of which were later traced back to burglaries of schools, colleges and small businesses which had been committed at that time. He also supplied laptops stolen from the warehouse of a transport company.

M declined to name his sources, but it was accepted on his behalf that he had dealt directly with those who had stolen the goods. M was paid £10,000 by L for the goods which had a value in excess of £250,000. L's employees were innocently involved in distributing the stolen goods.

L has no previous convictions. M has eight previous convictions for 15 offences (three for theft; the remainder being public order and driving offences). His most recent conviction was in 2008 when he was sentenced to two years' imprisonment for conspiracy to steal.

3(e) Handling - Crown Court

L, aged 42, and M, aged 36, pleaded guilty to handling stolen computer equipment. L ran a computer supply and repair business which ran into financial difficulties. He was approached by M who offered to supply him with cut price components.

Initially L believed these to be legitimate second hand components, but accepted that he soon came to realise they were stolen property. Over a period of 4 months M supplied L with components from a number of sources, some of which were later traced back to burglaries of schools, colleges and small businesses which had been committed at that time. He also supplied laptops stolen from the warehouse of a transport company.

M declined to name his sources, but it was accepted on his behalf that he had dealt directly with those who had stolen the goods. M was paid £20,000 by L for the goods which had a value in excess of £100,000.

L has no previous convictions. M has eight previous convictions for 15 offences (three for theft; the remainder being public order and driving offences). His most recent conviction was in 2008 when he was sentenced to two years' imprisonment for conspiracy to steal.

Annex B

Harm model 1 used in phase 3 interviews

Harm is initially assessed by reference to the loss that results from the theft.

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

Harm A –Financial harm

Where the value is larger or smaller than the amount on which the starting point is based, this should lead to a **moderate** upward or downward movement within the range at step 2

| | | |
|------------|--------------|--------------------------------|
| Category 1 | Above £1,000 | Starting point based on £2,500 |
|------------|--------------|--------------------------------|

| | | |
|------------|----------------|------------------------------|
| Category 2 | £200 to £1,000 | Starting point based on £500 |
|------------|----------------|------------------------------|

| | | |
|------------|------------|------------------------------|
| Category 3 | Up to £200 | Starting point based on £125 |
|------------|------------|------------------------------|

Harm B-impact on the victim

To complete the assessment of harm, the court should then take into account any additional harm caused to the victim, to determine whether it warrants upwards adjustment of the starting point to the corresponding point in the range above.

Additional harm is demonstrated by a detrimental effect on the victim: examples of such detrimental effect can include, **but are not limited to:**

- Emotional distress
- Damage to property
- Loss of business
- The victim is particularly vulnerable (due to factors including, but not limited to, their age or disability)
- A greater impact on the victim due to the size or type of their business

Harm model 2 used in phase 3 interviews

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

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

Harm

| | |
|------------|---|
| Category 1 | High value goods stolen (above £1,000) or Medium value with additional harm to the victim or others |
|------------|---|

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

| | |
|------------|--|
| Category 3 | Low value goods stolen (up to £200) and Little or no additional harm to the victim or others |
|------------|--|