

Handling stolen goods

Theft Act 1968 (section 22)

Triable either way

Maximum: 14 years' custody

Offence range: Discharge - 8 years' custody

STEP ONE
Determining the offence category

The court should determine the offence category with reference **only** to the factors identified in the tables 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 to determine the offender's role and the extent to which the offending was **planned** and the **sophistication** with which it was carried out. 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 leading role where offending is part of a group activity ▪ Involvement of others through coercion, intimidation or exploitation ▪ Abuse of position of power or trust or responsibility ▪ <u>Professional and sophisticated offence</u> ▪ <u>Advance knowledge of the primary offence</u> ▪ <u>Possession of recently stolen goods</u> 	
B - Medium culpability:	
<ul style="list-style-type: none"> ▪ Other cases where characteristics for categories A or C are not present ▪ A significant role where offending is part of a group activity ▪ Offender acquires goods for resale ▪ Some degree of planning involved 	
C - Lesser culpability:	
<ul style="list-style-type: none"> ▪ Performed limited function under direction ▪ Involved through coercion, intimidation or exploitation ▪ Little or no planning/sophistication ▪ Limited awareness or understanding of offence ▪ Goods acquired for offender's own personal use 	

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 <#>Closeness in time or place to the underlying offence ¶
 <#>The provision in advance of the underlying offence of a safe haven or the means of disposal of stolen property¶

Deleted: <#>Advance knowledge that the stolen goods were to come from a domestic burglary or a robbery¶

Deleted: <#>Offender makes self available to other criminals as willing to handle the proceeds of crime¶
 <#>Offences are committed by offender as part of commercial activity¶
 <#>¶
 <#>Other cases where characteristics for categories A or C are not present¶

The handling of stolen goods is ancillary to other offences, often to a serious underlying offence

Harm is assessed by reference to the **financial value** (to the loser) of the stolen goods **and any significant additional harm** associated with the underlying offence on the victim or others – examples of additional harm may include but are not limited to:

- Property stolen from a domestic burglary or a robbery
- Items stolen of an economic, sentimental or personal value
- Metal theft causing disruption to infrastructure
- Damage to heritage assets
- Items stolen which may endanger life

Harm	
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 additional harm or Medium value with significant additional harm to the victim or others
Category 3	Medium value goods stolen (£1,000 to £10,000) and no additional harm or Low value with significant additional harm to the victim or others
Category 4	Low value goods stolen (up to £1,000) and Little or no significant additional harm to the victim or others

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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 <u>Where the value greatly exceeds £100,000, it may be appropriate to move outside the identified range. Adjustment should be made for any significant additional harm where very high value goods are stolen.</u>	Starting point 5 years' custody Category range 3-8 years' custody	Starting point 2 years 6 months' custody Category range 1-4 years' custody	Starting point 1 year's custody Category range 13 weeks custody-1 year 6 months custody
Category 2	Starting point 3 years' custody Category range 1 year 6 months -4 years' custody	Starting point 1 year's custody Category range 26 weeks'-1 year 6 months custody	Starting point High level community order Category range Low level community order-26 weeks custody
Category 3	Starting point 1 years' custody Category range 36 weeks'-2 years' custody	Starting point High level community order Category range Low level community order-26 weeks custody	Starting point Band C fine Category range Band B fine –Low level community order
Category 4	Starting point High level community order Category range Medium level community order – 36 weeks custody	Starting point Low level community order Category range Band C fine –High level community order	Starting point Band B fine Category range Discharge –Band C fine

Consecutive sentences for multiple offences may be appropriate- please refer to the Offences Taken Into Consideration and Totality Definitive Guideline.

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 starting point.

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

Other aggravating factors:

- Seriousness of the underlying offence, for example, armed robbery
- Deliberate destruction, disposal or defacing of stolen property
- Damage to third party for example, loss of employment to legitimate employees
- Failure to comply with current court orders
- Offence committed on licence
- Offences taken into consideration
- Established evidence of community/wider impact

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- Good character and/or exemplary conduct
- Serious medical conditions requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives
- Determination and/or demonstration of steps having been taken to address addiction or offending behaviour

Deleted: In particular, **relevant recent convictions** may justify an upward adjustment, including outside the custody range. In cases involving significant persistent offending, the community and custodial thresholds may be crossed even though the offence may otherwise warrant a lesser sentence.¶ Consecutive sentences for multiple offences may be appropriate- please refer to the Offences Taken Into Consideration and Totality Definitive Guideline.¶ Where the defendant is dependent on or has a propensity to misuse drugs and there is sufficient prospect of success, a community order with a drug rehabilitation requirement under section 209 of the Criminal Justice Act 2003 may be a proper alternative to a short or moderate custodial sentence.¶

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.

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.

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