



Domestic burglary (simplified sentencing guideline) (Theft Act 1968 (section 9))

Burglary is an offence which can be tried 'either way' – that is either in the magistrates' courts ('summarily') or in the Crown Court ('on indictment') – depending on how serious the case is. If it is decided that it is less serious, it will be heard in the magistrates' courts where there is no jury. The longest prison sentence a magistrate can give for any offence is two years. If it is a more serious case, it will go to the Crown Court to be heard by a judge and jury.

For domestic burglary, the law, as set by parliament states that:

- ❖ The maximum sentence in the magistrates' courts is a £5,000 fine and/or 26 weeks' in prison.
- ❖ The maximum sentence in the Crown Court is 14 years in prison.
- ❖ The sentencing guideline range is from a community order up to 6 years in prison.

Determining the offence category – harm and culpability

The court should decide the category of offence.

- ❖ Category 1: Greater harm and higher culpability.
- ❖ Category 2: Greater harm and lower culpability or lesser harm and higher culpability.
- ❖ Category 3: Lesser harm and lower culpability.

Factors to consider

Factors indicating greater harm <ul style="list-style-type: none"> ❖ Theft of/damage to property causing a significant degree of loss to the victim (whether economic, sentimental or personal value). ❖ Soiling, ransacking or vandalism of property. ❖ Occupier at home (or returns home) while offender present. ❖ Trauma to the victim, beyond the normal inevitable consequence of intrusion and theft. ❖ Violence used or threatened Context of general public disorder. 	Factors indicating higher culpability <ul style="list-style-type: none"> ❖ Victim or premises deliberately targeted (for example, due to vulnerability or hostility based on disability, race, sexual orientation). ❖ A significant degree of planning or organisation. ❖ Knife or other weapon carried. ❖ Equipped for burglary (for example, implements carried and/or use of vehicle). ❖ Member of a group or gang.
Factors indicating lesser harm <ul style="list-style-type: none"> ❖ Nothing stolen or only property of very low value to the victim (whether economic, sentimental or personal). ❖ Limited damage or disturbance to property. 	Factors indicating lower culpability <ul style="list-style-type: none"> ❖ Offence committed on impulse, with limited intrusion into property. ❖ Offender exploited by others. ❖ Mental disorder or learning disability, where linked to committing offence.

Starting point and range

Having determined the category, the court should use the corresponding starting points to reach a sentence within the category range below.

Offence Category	Starting Point	Category Range
Category 1	3 years' custody	2–6 years' custody
Category 2	1 year's custody	High level community order – 2 years' custody
Category 3	High level community order	Low level community order – 26 weeks' custody

Aggravating and mitigating factors to consider – what increases or decreases the seriousness of the offence?

Factors increasing seriousness <ul style="list-style-type: none">❖ Previous recent and relevant convictions.❖ Offence committed whilst on bail.❖ Child at home (or returns home) when offence committed.❖ Offence committed at night.❖ Gratuitous degradation of the victim.❖ Any steps taken to prevent the victim reporting the incident or obtaining assistance and/or from assisting or supporting the prosecution.❖ Victim compelled to leave their home (in particular victims of domestic violence).❖ Established evidence of community impact.❖ Commission of offence whilst under the influence of alcohol or drugs.❖ Failure to comply with current court orders.❖ Offence committed whilst on licence.❖ Offences Taken Into Consideration (TICs).	Factors reducing seriousness or reflecting personal mitigation <ul style="list-style-type: none">❖ Offender has made voluntary reparation to the victim.❖ Subordinate role in a group or gang.❖ No previous convictions or no relevant/recent convictions.❖ Remorse.❖ Good character and/or exemplary conduct.❖ Determination, and/or demonstration of steps taken to address addiction or offending behaviour.❖ 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, where not linked to the commission of the offence.❖ Sole or primary carer for dependent relatives.
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Reduction for a guilty plea

The court should take account of any potential reduction in sentence for a guilty plea according to when the plea was made:

- ❖ First reasonable opportunity - 1/3 reduction recommended.
- ❖ After a trial date is set - 1/4 reduction recommended.
- ❖ At the door of the court or after trial has begun - 1/10 reduction recommended.