

### 271.1

**Consultation paper** In April 2014, the Sentencing Council produced a consultation paper for theft offences including handling. The consultation period ends on 26 June 2014.

### 271.5 *Burglary, Proceeds of*

*R v Williams and Jones* 2014 EWCA Crim 91 W pleaded to handling after a burglary count was dismissed at half time. J pleaded to handling on the day the second trial was due to begin. V had her house burgled one afternoon and jewellery was stolen from it. Two wedding rings (unknown value), a gold and diamond dress ring (£80), a pendant and gold necklace (£30), and three sets of earrings (unknown value) were taken. The wedding rings were of great sentimental value. Those items were pawned by W and J on the same day. The pawn broker paid £110 for all items. In interview J said W was the thief and W said J had possessed them first. W, aged 32, had numerous convictions for dishonesty as well as other offences, including numerous burglaries of dwellings and non-dwellings. The Judge described him as a career burglar. J, aged 48, also had a bad record but less dominated by dishonesty. Most of his offending involved violence but did include aggravated burglary in 2012 (5 years). Held. The Judge was entitled to have regard to the seriousness of the primary offence of burglary but W and J were not to be treated as burglars. The Judge incorrectly assessed the discount for the plea in relation to W, giving him just 10% and drawing no distinction between W and J. In any event the sentences were too long. For W, the correct sentence was **22 months** not 33. For J, the correct sentence was **18 months** not 22.

*R v Hearn* 2014 EWCA Crim 110 D pleaded to handling stolen goods and had another handling offence TIC'd. An Audi TT (valued at £20,000) was stolen after its keys were taken during a burglary. The car was driven away from the house and was later recovered, undamaged, by the police. At the scene of the burglary, a silver Jaguar was recorded on the CCTV. A similar Jaguar was caught on the CCTV on a number of occasions, with D being identified as the passenger on those occasions. The Jaguar was associated with D's co-accused and was driven on false plates. When the Audi was recovered it was also found to have false plates. D's fingerprints were found on the car and his DNA was found on a cigarette in the car. There was no evidence that D actually drove the Audi. The indictment initially alleged burglary and theft. At the PCMH, D offered to plead to handling but that was rejected. On the day of trial, the handling count was added and D pleaded. The first two counts were dropped. D was aged 32 when sentenced and had an appalling record. Held. D should have received credit approaching the maximum. Had D been convicted of burglary that would have been his third strike, attracting the minimum sentence. He had an appalling record and it was an important feature of the case that there were two cars. The starting point was too high and insufficient credit for the plea was given. **20 months** not 34.

### 271.9 *Monetary value £1,000-£10,000*

See also: *R v Varga* 2013 EWCA Crim 2793 (Handling car, worth £10,000, stolen during a domestic burglary. Sentence too high for a man of previously unblemished character. **6 months** suspended not twelve suspended. Curfew for 3 months not 6.)

### 271.10 *Monetary value £10,001-£100,000*

See also: *R v McCreanor and Underwood* 2014 EWCA Crim 876 (Convicted. Items worth £10,360+ from a business park found on M's premises. **12 months**, not 18)

### **271.11 Monetary value over £100,000**

*R v Keny* 2014 EWCA Crim 498 D pleaded to four handling counts. Police examined shipping containers which were about to be exported. They found five cars with D's fingerprint on them. Three cars were stolen during domestic burglaries<sup>1</sup>. One car was stolen when X was being given a test drive in an Audi and at the end when the owner left the car, X just drove the car off. The value of the cars was £21,000, £18,500, £31,600 and £50,000 making £121,100 in all. In a basis of plea it was contended that a) D did not know the goods were taken during a burglary, b) D's role was to tidy the cars for sale and c) for this he was paid £10 for each car. This was not accepted but no *Newton* hearing was ordered. D was aged 43 with 11 driving related convictions. Held. This was an organised operation covering a large geographical area. The system was used regularly. The basis of plea must be accepted because no *Newton* was ordered. Starting at **4 years** not 5, with the plea **3½ years** not 4½.

### **271.13 Persistent offenders**

See also: *R v Stockton* 2014 EWCA Crim 321 (Plea to handling. Proceeds of a burglary. Value about £300. Arrested near the property soon after the burglary. Aged 37. Appalling record including 27 convictions for 99 offences from 1992 to 2013. Four handling offences and six dwelling burglaries. The proximity in time and distance to the burglary aggravated the offence. Starting at 3 years, with full credit for the plea, **2 years** was not manifestly excessive.)

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<sup>1</sup> It is not possible to reconcile the various details about the cars unless one assumes a sentence in para 2 should have referred to burglaries and not one burglary. Ed.