



**CILEX Level 3 Certificate in Law and Practice/
CILEX Level 3 Professional Diploma in Law and Practice**

Unit 11 - Criminal Litigation

Case study materials

January 2023

Information for candidates

- You should familiarise yourself with these case study materials before the examination, taking time to consider the themes raised in the materials.
- You should consider the way in which your knowledge and understanding relate to these materials.
- In the examination, you will be presented with a set of questions which will relate to these materials.
- You may discuss these materials with your tutor(s).

Instructions and information to candidates during the examination

- You are allowed to take your own clean/unannotated copy of this document into the examination. Alternatively, you can access the electronic version of this document in the examination.
- You are **not** allowed access to any statute books in the examination.
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

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CASE STUDY MATERIALS

ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer working for Nicola Wilson, the lawyer in charge of the Criminal Litigation Department of Kempstons Solicitors, Manor House, Kempston, Bedford MK42 7AB.

You have been asked to review the attached documents from the file of Mei Ling. The documents are:

Document 1 Witness statement – Poppy Adamson

Document 2 Attendance note – Mei Ling

Document 3 Extract from Magistrates’ Court Sentencing Guidelines – Non-Domestic Burglary

DOCUMENT 1

WITNESS STATEMENT POPPY ADAMSON

WITNESS STATEMENT:

(CJ Act 1967, s.9; MC Act 1980, s.5A(3)(a) and s.5B; Crim PR, Part 27)

Statement of: Poppy Adamson
Address: 1 Station Row, Bedfordshire, MK22 5PU
Age/Date of Birth: Over 18
Occupation: Pizzeria owner

Who states:

This statement (consisting of 1 page(s) signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated: 8 January 2023

Signed: P. Adamson

I am the owner of Evisa Pizzeria on Kempston High Street. This morning, 8 January 2023, I arrived at the pizzeria and immediately saw that the door at the back of the pizzeria was open. I approached and went inside, nothing appeared to be disturbed or out of place. I went into the office and saw that the door to the safe was wide open when it should have been locked. I looked on the till system and on 7 January 2023 there was £726.00 in cash, which should have been in the safe. There should also have been petty cash of £47.00 and a cash float for change for the till of £127.00. This totals £900.00, but the safe was empty and there was no cash there.

I immediately tried to call Mei Ling, the Assistant Manager, who had been working the previous evening with two other members of staff and had been in charge. I had not been working that evening, but no members of staff had contacted me and reported any problems. There was no answer from Mei Ling and I left a voicemail asking her to call me back.

I then checked the CCTV for the previous night, 7 January 2023. The CCTV covers the main pizzeria area with customer seating, the office and also the back entrance. There was lots of footage of customers in the pizzeria earlier in the evening, and Mei Ling and other staff serving customers. At 11.19 p.m. there is footage of Mei Ling going into the office with the takings from that night in a red bag after having cashed up, and she can be seen putting them in the safe. At 11.37 p.m. Mei Ling is seen leaving the pizzeria through the back door with the other two members of staff. She is seen locking the door and moving away.

At 1.06 a.m. Mei Ling appears on the CCTV again and using her key, enters through the back door. She goes straight to the office, opens the safe, takes out all the contents and is seen holding the red bag, which contained the takings from the previous evening. She then runs out of the pizzeria, through the back door. The back door was left open.

I immediately contacted the police telling them what had happened and giving them the CCTV footage. Mei Ling did not have permission to be at the pizzeria after her shift had ended or to take money from the safe. I am deeply shocked; Mei Ling has been working for me for two years. She has always been extremely reliable and trustworthy, an excellent part of our team. The money she has taken will now make it very difficult for me to pay the staff wages this week. I am sad at how this will affect the staff and my business, which I have been working so hard to keep afloat in recent times.

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ATTENDANCE NOTE

Date: 8 January 2023

Client: Mei Ling

Matter: Burglary

Attended by: Nicola Wilson – duty lawyer

Attendance: 8 units

Attending Mei Ling (DOB: 16/03/2003) on the matter of burglary

Attending Mei Ling (DOB: 16/03/2003) on the matter of burglary, who confirmed as follows.

I am employed at Evisa Pizzeria on Kempston High Street, where I am the Assistant Manager. I was working yesterday evening on 7 January 2023 with two other members of staff and I was in charge. It was a busy evening. At the end of the night, I cashed up the takings and put them into the safe in the office in the red bags we use for this. I then left at around 11.30 p.m. with the two other members of staff, using the back door and locking it after I left.

I returned to my flat where my brother was waiting for me. He told me he was in big trouble and needed money quickly to pay off a debt. He has recently lost his job and had borrowed money from some guys he knew. They now wanted the money back and were threatening him that if he didn't get it to them tonight, he would be in big trouble. I tried to calm my brother down but he was distraught, shaking and crying, and I just wanted to help him. I had never seen him like that before. I told my brother I would help him but I didn't really know how.

I have some savings but this is in the bank and I couldn't get access to this money so late at night, but knew there was money at the pizzeria, as I had just put it in the safe. Without thinking what I was doing, I went back to the pizzeria and used my key to enter through the back door. I went to the office and took all the money out of the safe and then I just ran all the way back to my flat. I gave the money to my brother and he left. I intended to go to the bank straight away when it opened, take out the same amount of money and put it in the safe at work.

I was going to contact Poppy, the owner, and try to explain as she has been so good to me and it is a lovely place to work. After the stress of the night, I had a couple of drinks of gin and fell straight asleep. The next morning when I woke up, I saw that Poppy had called me but I mustn't have heard it. I am going to pay the money back, I never meant to take it and keep it.

The next thing I knew, the police were at my flat arresting me for burglary but I never broke into the pizzeria; I have a key and I am going to pay the money back. If only I had had the chance to talk to Poppy, I'm sure she would understand. I have not done anything wrong.

I have never been in trouble with the police before. I have a daughter, aged three, who I share custody of with my ex-partner.

EXTRACT FROM MAGISTRATES' COURT SENTENCING GUIDELINES – NON-DOMESTIC BURGLARY**Non-domestic burglary - Effective from 1 July 2022**

Theft Act 1968, s.9

Effective from: 01 July 2022

Triable either way (except as noted below)

Maximum: 10 years' custody

Offence range: Discharge – 5 years' custody

This is a specified offence for the purposes of sections 266 and 279 (extended sentence for certain violent, sexual or terrorism offences) of the Sentencing Code if it was committed with intent to:

1. inflict grievous bodily harm on a person, or
2. do unlawful damage to a building or anything in it.

This offence is **indictable only** where it is a burglary comprising the commission of, or an intention to commit, an offence which is triable only on indictment.

[User guide for this offence](#)

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

Step 1 – Determining the offence category

The court should determine the offence category with reference only to the factors in the table 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. **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**

- A significant degree of planning or organisation
- Knife or other weapon carried (see step 6 on totality when sentencing more than one offence)

B – Medium culpability

- Some degree of planning or organisation
- Equipped for burglary (where not in high culpability)
- Other cases that fall between categories A and C because:
 - Factors are present in A and C which balance each other out **and/or**
 - The offender's culpability falls between the factors described in A and C

C – Lower culpability

- Offence committed on impulse, with limited intrusion into property
- Involved through coercion, intimidation or exploitation
- Mental disorder or learning disability, where linked to the commission of the offence

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Harm

The level of harm is assessed by weighing up all the factors of the case

Category 1

- Violence used/serious violence threatened against the victim
- Substantial physical or psychological injury or substantial emotional or other impact on the victim
- Person(s) on premises or returns or attends while offender present
- Theft of/damage to property causing a substantial degree of loss to the victim (whether economic, commercial, cultural or of personal value)
- Soiling of property and/or extensive damage or disturbance to property
- Offence committed in the context of public disorder

Category 2

- Violence threatened but not used against the victim (where not at category 1)
- Moderate physical or psychological injury or some emotional or other impact on the victim
- Theft of/damage to property causing a moderate degree of loss to the victim (whether economic, commercial, cultural or of personal value)
- Moderate damage or disturbance to property

Category 3

- Limited physical or psychological injury or limited emotional or other impact on the victim
- Nothing stolen or only property of low value to the victim (whether economic, commercial, cultural or of personal value)
- Limited damage or disturbance to property

Step 2 – Starting point and category range

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous conditions.

Where the offender is dependent on or has a propensity to misuse drugs or alcohol and there is sufficient prospect of success, a community order with a drug rehabilitation requirement under [part 10](#), or an alcohol treatment requirement under [part 11](#), of Schedule 9 of the Sentencing Code may be a proper alternative to a short or moderate custodial sentence.

Harm	Culpability		
	A	B	C
Category 1	Starting point 2 years' custody	Starting point 1 year's custody	Starting point 6 months' custody
	Category range 1 – 5 years' custody	Category range High level community order – 2 years' custody	Category range Medium level community order – 1 year's custody
Category 2	Starting point 1 years' custody	Starting point 6 months' custody	Starting point Medium level community order
	Category range High level community order – 2 years' custody	Category range Medium level community order – 1 year's custody	Category range Low level community order – High level community order
Category 3	Starting point 6 months' custody	Starting point Medium level community order	Starting point Band B fine
	Category range Medium level community order – 1 year's custody	Category range Low level community – High level community order	Category range Discharge – Low level community order

CASE STUDY MATERIALS

Below is a non-exhaustive list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

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
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors:

- Abuse of a position of trust
- Restraint, detention or additional gratuitous degradation of the victim
- Vulnerable victim
- Offence was committed as part of a group
- Offences taken into consideration
- Any steps taken to prevent the victim reporting the incident or obtaining assistance and/or from assisting or supporting the prosecution
- Offence committed on licence or post sentence supervision or while subject to court order(s)
- Commission of offence whilst under the influence of alcohol or drugs
- Established evidence of community impact

Factors reducing seriousness or reflecting personal mitigation

- Offender has made voluntary reparation to the victim
- The offender was in a lesser or subordinate role if acting with others/performed limited role under direction
- 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
- Physical disability or serious medical conditions requiring urgent, intensive or long-term treatment
- Mental disorder or learning disability, where not linked to the commission of the offence
- Age and/or lack of maturity
- Sole or primary carer for dependent relatives

End of the case study materials

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