



Her Majesty's Attorney General for Jersey

Code on the decision to prosecute

Supplementary guidance

Shoplifting

Introduction

- 1) This Guidance is supplementary to the Code on the Decision to Prosecute dated 1 March 2016. It does not modify or amend the Code but is rather guidance as to how the Code might be applied in relation to larceny from shops ("*shoplifting*").
- 2) The purpose of issuing these Guidelines is to produce a more consistent approach deciding whether or not offences of shoplifting can be dealt with at the Parish Hall or should be dealt with by the Magistrate's Court.

Guidance

- 3) Shoplifting does not fall into a special category of offence. Allegations of larceny from stores are frequent. It is important that there should be no perception in the community that it is less serious than other forms of larceny.
- 4) In deciding whether or not a case of shoplifting can appropriately be dealt with at the level of the Parish Hall or charged to the Magistrate's Court, the Centenier taking the decision should bear all relevant factors in mind.
- 5) Once the Centenier has formed the view that the evidential test is passed, then among the relevant factors to be considered should be the following:
 - a) the number of items taken and the value of the goods involved;
 - b) the level of sophistication of the offence;
 - c) whether the defendant has previous convictions for these or similar offences, or has been warned or cautioned in respect of such an offence on a previous occasion at the Parish Hall and whether the offence has been committed in breach of an existing court order;
 - d) the other circumstances of the offence.

The number and value of the goods involved

- 6) If the shoplifting relates to a single item of significant value or to a number of items (of whatever value) it may well not be inappropriate to dispose of the matter at the Parish Hall.

Level of sophistication

- 7) The Centenier should have regard to the level of sophistication with which the shoplifting was carried out. There is a distinction to be drawn between a single spontaneous larceny of a relatively low value item on the one hand and larceny of a significant value or of many separate items, particularly where there is evidence of pre-planning, on the other. In the latter case, it will seldom be appropriate to deal with the matter at Parish Hall. In the former case, subject to the other guidance set out herein, it may be.

Previous convictions or warnings

- 8) It would seldom be the case that where an individual has a previous conviction for a similar offence or has been warned or cautioned in respect of a similar offence in the Parish Hall, that it would be appropriate to deal with the matter at Parish Hall level. It may in some cases be appropriate to take the age of the defendant into account in determining whether or not it might be appropriate to offer a second warning at Parish Hall. This will only occur in exceptional circumstances. Generally the opportunity to be dealt with at Parish Hall should only be offered once.

Circumstances of the offence

- 9) Where the offending contains aggravating features, such as a breach of trust, (for example, in cases where the larceny from a shop has taken place by an employee or someone who previously was an employee, and had information that facilitated the crime), then it will seldom be the case that it would be appropriate that the matter is dealt with at Parish Hall level. It would also seldom be appropriate to deal with the matter at Parish Hall if the individual has involved a child in the offending or carried out the offending whilst with a child of an age able to understand the nature of the act done.

Disposal of matter at Parish Hall

- 10) In the event that, taking all the relevant considerations into account, the Centenier believes this matter should be dealt with at the Parish Hall, then any caution given should be a written caution so that a record of caution will be supplied to and maintained by the States of Jersey Police.
- 11) Whilst each case must ultimately be considered individually and a Centenier retains a discretion (subject to the Attorney General's direction) as to how to deal with a matter before him, it is important in this field to ensure both fairness and consistency. Accordingly Centeniers should only depart from these Guidelines where they are satisfied that there are exceptional grounds for doing so.
- 12) If further guidance is sought in a particular case then a Centenier should not hesitate to contact a Legal Adviser or a Crown Advocate.