



Prifysgol Cymru
Y Drindod Dewi Sant
University of Wales
Trinity Saint David

Handling Stolen Goods



On successful completion of this module, learners will be able to:

1. Explain the offence of Handling Stolen Goods contrary to Section 22 Theft Act 1968
2. Group Activity 1 – Trainer to introduce 'Handling Stolen Goods' Storyboard PowerPoint. Trainer to explain the context, split the class into groups and hand out laminated group activity cards. Trainer to debrief group findings

Often when people steal something, their purpose is to make a profit...

This may be a pre-planned theft, or an opportunistic theft, but to profit from the act, they need to convert the stolen 'goods' into something 'valuable' to them...

Whether that thing they convert it into is money, or some other valuable item, you have to consider – what's the point of stealing something if you don't make a profit from it.

When the thief manages to steal money, then generally there's no problem – no complications, they can just spend the money as they please...

But what if they steal something else? Attractive items like jewellery, mobile phones or other valuable items? How does the 'thief' realise a profit from their theft?

Most seasoned criminals will have a 'handler' or a 'fence' that they know they can go on to sell the goods for monetary gain.

We are looking at the 'handler', as opposed to the 'thief'.

What if goods are offered to a 'buyer' at a price far below the asking price?

The 'buyer' may consider themselves as an honest citizen –

"Officer – they must have 'fallen off the back of a lorry'!"

By using this phrase, are they admitting that they knew the items were stolen when they handled them?

The 'lorry' may well be the Internet today, or car boot sales – but moving on stolen goods is still a lucrative business....unless you get caught...

So what do 'handlers' or 'fences' look like?.....

Handling Stolen Goods

Section 22 Theft Act 1968

Otherwise than in the course of stealing, knowing or believing them to be **stolen goods**, dishonestly receives the goods or dishonestly **undertakes or assists** in their **retention, removal, disposal or realisation**, by or for the **benefit of another** or **arranges to do any of the above**



Some people whose conduct does not amount to receiving but nevertheless they help or facilitate in dealing with the goods:

For example:

- the goods need to be stored somewhere before being given to the receiver
- the goods need to be moved by some form of transport to the receiver
- goods may need to be altered before being given to the receiver e.g. remove identification
- people need to be found who are willing to receive the goods

Act seeks to make sure that people who help in dealings with stolen goods will commit an offence also

The offender can not be charged with several different offences of handling the same stolen goods...such action has been ruled as being bad for 'duplicity' (a legal term for attempting to double an offenders liability before a court based on one set of facts)

The charge will specify which type of handling is alleged

Can see that there are many ways of handling stolen goods... 18 ways in fact...we will see later how it amounts to 18 times!

Handling Stolen Goods

Otherwise than in the course of stealing



knowing or believing them to be stolen goods,
dishonestly receives the goods or dishonestly
undertakes or assists in their retention,
removal, disposal or realisation by or for the
benefit of another or arranges to do any of the
above



To prove an offence of handling stolen goods, it must be proven that an offence of theft has been completed. Obvious that the thief does 'handle' the goods...

...but no intention to punish the person twice for the same offence...two bites of the cherry

won't charge the thief with theft and handling... only charge with the theft

Therefore any active participant in the act of stealing cannot be guilty of handling in relation to his contact with the stolen goods at the time of the theft...consider whether or not the actions of the suspect formed an on-going part of the theft.

The thief can **only** become handler once they have severed control over the property and later decide to have dealings with property again

Handling Stolen Goods



Otherwise than in the course of stealing, ***knowing or believing them to be stolen goods***, dishonestly receives the goods or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another or arranges to do any of the above



The mental element '*mens rea*'...always difficult to prove what was in the persons mind at the time of the offence

The person must:

-either know or believe that the goods are stolen

Therefore at the time a person handles the stolen goods, they must know of the theft or believe that the goods are stolen

The terms knowing and believing were defined in **R V HALL 1985** as:

Knowing – means having actually been told that the goods are stolen, by someone with first hand knowledge, such as the thief

The term 'knowing' means by reason of fact i.e. the person taking possession of the goods knows for a fact that they are stolen. May be that they are told by the person producing the goods that they are stolen or they have another reason for knowing eg highly advertised as stolen in media

Handling Stolen Goods



Otherwise than in the course of stealing, ***knowing or believing them to be stolen goods***, dishonestly receives the goods or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another or arranges to do any of the above



Belief – Means the state of mind of a person who says to himself that he could not be certain that the goods are stolen, but there could be no other reasonable conclusion in the light of all the circumstances

‘Believing’ means as it says i.e. that the person who receives the goods believes them to be stolen, however there must be reasons why a person receiving the goods would have reason to believe that they are stolen.

There must be some obvious clues that the goods are stolen e.g. identification marks removed.

It may be that you can only establish the belief from the receiver by means of questioning them about their thoughts at the time of coming into contact with the property

- Depends on thorough questioning in interview...
- What were they thinking when they bought the goods?
- What did they think of the very low price they paid?
- What would any person offered a very cheap item think?
- Bought in unusual circumstances? Back of pub?
- Where would a normal person buy that type of goods?
- What did they know about the person selling the goods?
- Know them to be a thief? Burglar?
- Was item advertised as stolen in media ... e.g. unusual jewellery purchaser must know? Who can they sell it to? Keep in a private collection? Very private collection!!

Mere suspicion? Not enough...but may be considered by a jury together with other

evidence e.g. no receipts, bought off known thief, low price, id marks removed

But deliberate blindness to the true identity of the goods **will** suffice

Handling Stolen Goods

Otherwise than in the course of stealing, ***knowing or believing them to be stolen goods***, dishonestly receives the goods or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another or arranges to do any of the above



Goods must be stolen goods... must be able to prove this. So what offences are the goods from?

Theft, Robbery, Burglary, Fraud, Blackmail

Goods include money and every other description of property except land...remember what is included in 'property' for the theft act...not possible to steal land...

Includes goods which have been stolen abroad, contrary to the law of that land and in circumstances which would, in England and Wales, have amounted to theft, deception or blackmail – e.g. painting stolen in France and transported to art dealer in England

Goods are also classed as stolen goods if at some time they have represented the proceeds of the stolen property

Stolen goods includes not only items that have been stolen... but also relates to anything else for which the thief has exchanged them, and further to anything for which the handler exchanges them...

Therefore if an iPhone is stolen, and sold to an unsuspecting party who then part-exchanges it for a new one at a high street retailer, the first iPhone will be 'stolen' goods, the new one will not.

But if the first person buying the original iPhone knew or believed that it was stolen (say they were a regular handler), the new iPhone will be treated as stolen goods

aswell!

Handling Stolen Goods

Otherwise than in the course of stealing, ***knowing or believing them to be stolen goods***, dishonestly receives the goods or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another or arranges to do any of the above



An important point to note here is that on some occasions police will find unattended goods which are stolen and may wish to keep them under observation, waiting for the thief or the handler to turn up. This is a lawful form of police entrapment.

May cause legal problems for police in situations where wanting to set trap in order to arrest a handler of stolen goods
e.g. the police find a warehouse full of stolen goods and decide to place observation / surveillance on warehouse and wait for the handler to turn up...

When they are found by the police, the goods are now in police possession so anyone who turns up cannot be guilty of handling as the goods are no longer stolen goods...

Criminal Attempts Act ensures states that in a police trap an 'attempt' will almost inevitably be committed even if the full commission of the offence is impossible. Exactly the same punishment possible as for full offence. Reminder of attempts!...

The courts are not mindful of stopping the police from setting a trap the mere keeping of stolen goods under observation does not mean automatically that the goods would be regarded as having been restored to lawful possession.

It is accepted that the police, in keeping the goods under observation, are keeping an open mind as to whether or not they will actually seize the stolen goods, and are keeping observation merely to enable them to question the suspected handler when that person arrives...

Nobody wants the police to manage operations with one hand tied behind their backs!

Handling Stolen Goods



Otherwise than in the course of stealing, knowing *or believing them to be stolen goods*, **dishonestly** receives the goods or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another or arranges to do any of the above



DISHONESTY

Only one test –

- *R v GHOSH* 1982 (Twofold test)

G, a surgeon, who had been acting as a locum at a hospital, was charged with attempting to obtain and obtaining money by deception contrary to section 15(1) of the Theft Act 1968 (*now repealed*) by falsely pretending that money was due to him for work that had in fact been carried out by someone else.

His defence was that he had not acted dishonestly because the money was due to him as consultation fees. The jury was directed that it was for them to decide by applying their own standards of honesty, whether G had acted 'dishonestly'. He was convicted and appealed.

Held

Appeal dismissed, conviction upheld

Where a person is charged with dishonesty the jury must decide as to his guilt in the following manner –

1. Whether, according to the ordinary standards of reasonable and honest people, what was done was dishonest. If it was not, then that was the end of the matter - acquit.
2. However, if it was dishonest by those standards, then the jury must decide

whether the person realised that what he was doing was by those standards, dishonest. (see *note below*)

In this case there was no misdirection; the jury had rejected G's evidence on all counts and therefore dishonesty had to be found.

Please Note

The case of [Ivey v Genting Casinos \(UK\) Ltd \(trading as Crockfords\) 2017](#), has held that the test for dishonesty should be objective and has partly overruled the test outlined in Ghosh (above). It was held that the subjective element of the test for dishonesty in Ghosh did not correctly represent the law and as such, directions based upon it ought no longer to be given.

The principal objection to the second leg of the rule was that the less the defendant's standards conformed to what society in general expected, the less likely he was to be held criminally responsible for his behaviour.

Handling Stolen Goods

Otherwise than in the course of stealing, knowing *or believing them to be stolen goods*, **dishonestly receives the goods** or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another or arranges to do any of the above



Receives

- Includes – to take possession of something (means taking physical possession of item), **and**
- in the context of this legislation can mean to have control of something...

Receiving does not necessarily require the physical reception of goods or even touching them...

e.g. the thief leaves stolen goods in lock up garage belonging to the receiver from where the receiver will collect and dispose of the goods... as soon as the goods are in the garage then the receiver has control of them...so has received them.

Includes **joint** possession or control...

Handling Stolen Goods



Otherwise than in the course of stealing, knowing *or believing them to be stolen goods*, dishonestly *receives the goods* or **dishonestly undertakes or assists** in their retention, removal, disposal or realisation by or for the benefit of another or arranges to do any of the above



UNDERTAKE

To agree or promise to do something for someone

ASSISTS

To physically aid someone to do something

Handling Stolen Goods

Otherwise than in the course of stealing, knowing or believing them to be stolen goods, dishonestly receives the goods or ***dishonestly undertakes or assists in their retention, removal, disposal or realisation*** by or for the benefit of another or arranges to do any of the above



RETENTION

Definition of retention is:

‘to keep possession of,
not lose,
continue to have’...i.e. to retain

Assist in the retention...a person looks after what they know to be stolen goods for another person, not receiving themselves, but looking after the goods

E.g. a parent who knows their child has stolen a bike but lets them keep it and tells the police there is no cycle in the house or gives the child a tin of paint to disguise the bike.

Handling Stolen Goods



Otherwise than in the course of stealing, knowing *or believing them to be stolen goods*, dishonestly receives the goods or ***dishonestly undertakes or assists in their retention, removal, disposal or realisation*** by or for the benefit of another or arranges to do any of the above



REMOVAL

Means to:

- carry or
- transport, and for the purpose of this legislation means any person who carries, transports or
- helps to do so in relation to stolen goods

Person who drives the van and the passenger who sits next to them ... if they both know the goods are stolen then they are guilty

Person who helps take the property in and out of the van is also guilty (if they have the guilty knowledge)

Handling Stolen Goods

Otherwise than in the course of stealing, knowing or believing them to be stolen goods, dishonestly receives the goods or **dishonestly undertakes or assists in their retention, removal, disposal or realisation** by or for the benefit of another or arranges to do any of the above



DISPOSAL

DESTRUCTION – destroy in any way eg scrap yard buy stolen car and crush it

DUMPING – buys goods, finds that they are stolen and dumps in bin

Assist dumping e.g. 2nd hand jeweller finds goods are stolen and helps person bin them

TRANSFORMING – Transform by heat or chemical. Alter so can not be identified

- Smelt down gold
- Remove number plates of vehicles

DISTRIBUTE BY WAY OF GIFT – gives stolen jewellery as gift (and the receiver is guilty if they knew the item was stolen)

Handling Stolen Goods



Otherwise than in the course of stealing, knowing *or believing them to be stolen goods*, dishonestly receives the goods or ***dishonestly undertakes or assists in their retention, removal, disposal or realisation*** by or for the benefit of another or arranges to do any of the above



REALISATION

To exchange for money or anything else of value...

E.g. receiver of shoplifted goods sells for half retail price

E.g. stolen goods exchanged for cash or drugs

Handling Stolen Goods



Otherwise than in the course of stealing, knowing *or believing them to be stolen goods*, dishonestly receives the goods or ***dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another*** or arranges to do any of the above



Or dishonestly undertakes / assists in their retention, removal, disposal or realisation by or for the benefit of another

So the person committing the offence can either:

- dishonestly receive the goods themselves, or
- dishonestly undertake or assist in them being retained etc. by another person, or
- dishonestly undertake or assist in them being retained etc. for the benefit of another person

Handling Stolen Goods

Otherwise than in the course of stealing, knowing *or believing them to be stolen goods*, dishonestly receives the goods or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another **or arranges to do any of the above**



Arranges?

Completes the many ways in which the offence may be committed...

- Covers the actions of a person who takes no physical part in the transit of the stolen property.
- Includes making phone calls, loaning transport etc.
- Person must know or believe that the arrangements are for stolen goods.

Points to Prove

1. That the goods were **stolen** goods

2. That the goods were **still** stolen goods at the time of the alleged handling

3. **Actus Reus** – the accused received or undertook/ assisted in the removal, retention, realisation, disposal of the property or arranged any of the above

4. **Mens Rea** – the accused knew or believed them to be stolen goods



Special Evidence

The prosecution can prove 'guilty knowledge' in handling cases by introducing:-

Evidence that the accused:

-has had in their possession or has undertaken or assisted in the retention, removal, disposal or realisation of any goods stolen ***within the last 12 months prior to offence charged***

AND

-in the preceding 5 years of offence charged, had been convicted of theft or handling stolen goods



Note – this is only applicable in handling cases

Must show both aspects – i.e. stolen property was in the hands of the accused in the last 12 months

And

they had a conviction in the preceding 5 years for handling

Why this rule? Because the mens rea is difficult to prove when the person does not admit they knew or believed the goods to be stolen.

But if the person is a convicted handler (and has been found with stolen property recently) this evidence can show the court that he/she has a tendency towards dishonesty and should have known that the goods in the current case were stolen...

If the prosecution intends introducing this evidence, they must give 7 days notice to defence in writing before the case is heard in court...

