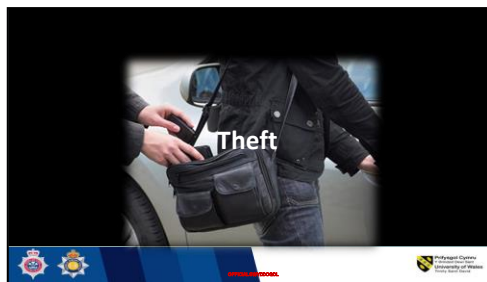




Objectives: By the end of this lesson you will be able to:

- 1. State** the legal definition of theft.
- 2. Describe** the points to prove in relation to theft.
- 3. State** the legal definition of abstract electricity.
- 4. Identify** whether an offence of theft has been committed.



Theft is an acquisitive crime.

Acquisitive means that a crime has been committed to gain possessions, whereby the offender has acquired items from another person.

Theft forms the basis of most of the crimes reported to the police.

It is therefore an offence that you will deal with frequently as an officer.

Theft is triable either-way with a maximum penalty in the Crown Court of seven years imprisonment and/or an unlimited fine.

In a Magistrates' Court, the maximum penalty depends on when the offence was committed:

- For offences committed prior to Monday 2nd May 2022, the maximum penalty for a single either-way offence is up to 6 months imprisonment and/or an unlimited fine; for two or more either-way offences, the maximum penalty is up to 12 months imprisonment and/or an unlimited fine;
- For offences committed on or after 00.01am on Monday 2nd May 2022, the maximum penalty available for a single offence either-way offence, and for two or more either-way offences, is up to 12 months imprisonment and/or an unlimited fine [see The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022]

There is an exception for low value shoplifting as defined by section 22A(1) of the Magistrates' Courts Act 1980 (MCA 1980). Low-value shoplifting means where the value of the stolen goods does not exceed £200.

The High Court confirmed that 'low value' shoplifting is an either-way theft offence until the Court considers plea and allocation at the

defendant's first appearance. The Court noted "low value shop theft allegations should not be treated as summary stand-alone offences, notwithstanding their aggregate value, up to the point of plea and allocation; thereby instigating the six-month time limit to lay an information imposed by virtue of MCA 1980 s 127". Consequently, offences of low value theft which are charged outside the 6-month time limit for summary only offences (under s.127 MCA 1980) are not time-barred.

Low-value shoplifting remains an offence which is triable either-way in the following circumstances:

- an adult defendant must be given the opportunity to elect Crown Court trial, including where the aggregate value of the offence(s) is below £200. If the defendant so elects, the case will be 'sent' to the Crown Court for trial (section 22A(2) MCA 1980);
- an adult defendant is charged with one or more shoplifting offences where the aggregate value of goods stolen exceeds £200 – see *Candlish v DPP* [2022] EWHC 842 (Admin) and *R v Harvey* [2020] EWCA Crim 354. In that event, the Court will proceed to consider plea and allocation in the normal way for either-way offences.

Offences of theft from businesses, for example straightforward shoplifting where the value of the good stolen does not exceed £100, can be dealt with by way of PND (provided the necessary criteria are fulfilled)



Group Activity

Trainer to divide the class into 5 small groups for group activity / competition.

Each group is allocated 3 minutes to research the definition of theft.

Students are to memorise the definition of theft and not write anything down at this time.

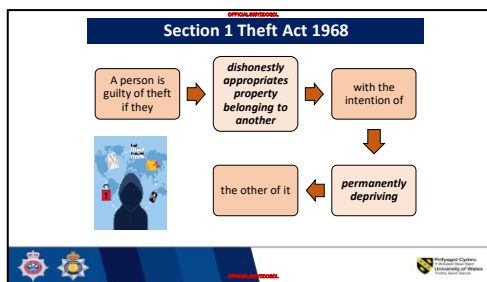
After three minutes students are to put their phones / research material away.

Trainer to provide students with the first word of the definition which is written on the board.

In their individual groups students are to take it in turns to write one following word from the definition on the board.

This continues until the definition has been written out in full.

For each correct word written, each team gets a point which is collated on the white board



Section 1 Theft Act 1968

In order to establish an offence of theft each element of the offence must be proved, therefore each need to be examined in detail.

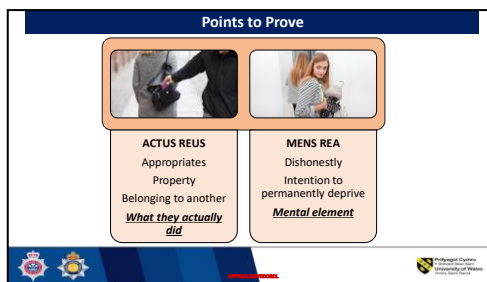
Activity

Students to re-read the definition of theft.

Students to write down the definition without the assistance of any research material.

Students to swap papers with a colleague and mark each other's work.

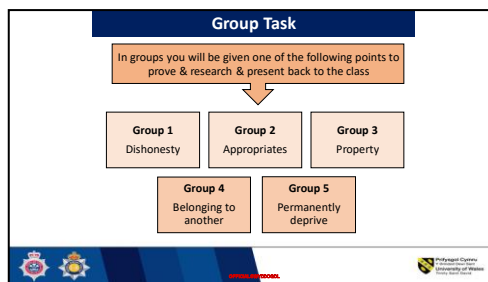
One mark allocated for each correct word.



As with a number of offences, to commit theft it is not only the act that must be proved, but the mental state of the offender.

The 'mental' element is much more difficult to prove as it is the state of mind of the offender at the time the offence is committed.

This is often very difficult to prove and relies in many cases on an admission by the offender.



Group Activity: Trainer to divide the class into small groups. Each of the groups will be given a point to prove from the definition of theft to research. Trainer should use Blackstones to ensure students are finding the correct information.

Students can then present this information to the class using which ever means they prefer. This should last for around 10 minutes each.

After each input trainer should then ensure that the whole class has an understanding of this section and explain – using PowerPoint presentation as visual aid.

Dishonestly:

What does dishonesty mean?

What section of the theft act explains dishonesty? What has been held to not be dishonest? (Belief - Right in law, consent and reasonable steps)

Can you think of any examples to assist?

Tell me about the stated case of R V Ghosh? (See new legislation Ivey v Genting Casinos 2017)

What are the two steps for a Ghosh ruling?

Is a willingness to pay dishonest?

Appropriate:

What does appropriation mean?

What section of the theft act explains appropriate?

How would a person innocently acquire property but still commit theft? (Innocently acquire but decide to keep / deal with it as their own)

How long does an appropriation have to be for?

What does R v Lawrence and R v Gomez teach us?

What does section 3 of the theft act say about acting in good faith? (No appropriation if purchase for value and acting in good faith)

What examples can you think of to demonstrate this?

Property:

What is property?

What section of the theft act explains property?

What type of things are property?

What type of things are not property?

What stated cases are there to help us understand property?

As a rule, can land be stolen? What are the exceptions to this rule?

Can things growing wild be stolen? What are the exceptions to this? (Note – Intent at time of picking)

What if somebody stole something growing wild from my garden? Can it be any land?

Can wild animals be stolen? What are the exceptions?

Can you think of examples to explain this?

Belonging to another:

What does belonging to another mean?

How can one person have ownership of an item?

What does proprietary interest, possession and control mean?

Can someone steal something they own?

Tell me about the cases, R V Turner, R V Kelly and R V Rostron?

Can you think of examples to explain this?

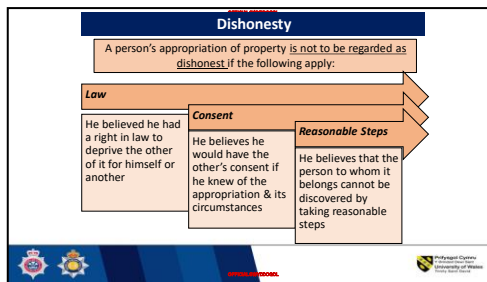
Intent to permanently deprive:

What does intent mean? When would the act be complete? Does it matter if the person actually follows through? (Intend to steal but has a change of heart)

What does permanently deprive mean?

What circumstances does legislation give us to describe permanently deprive? (treating property as own, borrowing beyond scope of agreed terms, parting with property under condition for return)

What if somebody obtains property by mistake and fails to return it? E.g. Too much change given?



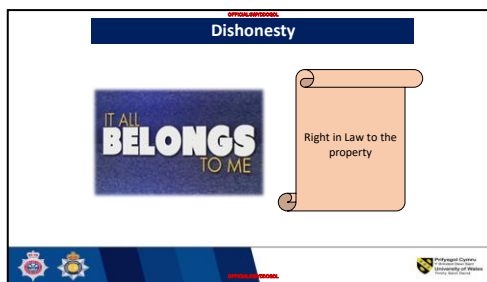
Section 2 Theft Act 1968

The theft act does not define dishonesty.

We are guided by case law and the act tells us that in these instances a person's appropriation of property is not to be regarded as dishonest.

Additionally it tells us that in one instance a persons conduct **may** be dishonest

To try and make things easier, firstly, the Theft Act defines what would **not** be regarded as dishonest.



The first of these is:

A person's actions should not be regarded as dishonest if that person honestly believes:

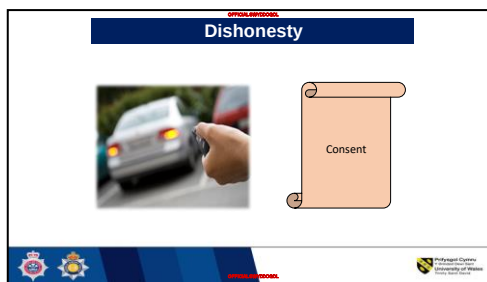
1. **That he or she has in law the right to deprive the other of it on behalf of him or herself or a third person.**

e.g. Smith takes Green's umbrella in the mistaken belief he owns it. This is NOT dishonest.

Neither is it when Smith, acting on behalf of Jones, appropriates Green's umbrella, having been told wrongly by Jones the umbrella was his.

OR

A person attends a course without paying for the course fee, it would not be dishonest to take their mobile phone – as the lecturer **believed** they had a right in law to appropriate the phone in lieu of the course fee. The belief does not need to be reasonable, just honestly held, and could be based on a mistake.



2. That if the person to whom the property belongs knew of the appropriation and its circumstances (ie why it was taken) they would have consented.

e.g. I have a lift into work with a colleague.

During the day I receive a phone call to say that my wife has been rushed into hospital and I need to get there a.s.a.p.

I do not have any means of transport, however my colleagues car keys are on their desk.

I pick up the car keys and take the car.

I would not be guilty of theft as I **honestly believed** that had they known the circumstances my colleague would have given me their vehicle to travel to the hospital.

Had I taken the vehicle as I fancied doing some shopping in Tesco on a lunchtime then the likelihood is they would not have consented and I would therefore technically be guilty of theft.

OR

Coates and Murray are next door neighbours.

Coates runs out of milk and takes a pint from Murray's doorstep without his knowledge.

Coates must honestly believe that Murray would have allowed the taking with regard to the circumstances.

Coates may well believe the taking of the milk for breakfast would be acceptable to Murray.

However, he may not believe taking the milk to sell at a profit to a thirsty passer-by would receive Murray's consent.



3. That the person to whom the property belongs cannot be discovered by taking reasonable steps.

Q. How many of you have found money in the street?

Q. Did you keep it or hand it in?

Q. For those that kept it, why are you not guilty of theft?

The belief has to be in relation to the likelihood of discovering the owner by taking reasonable steps.

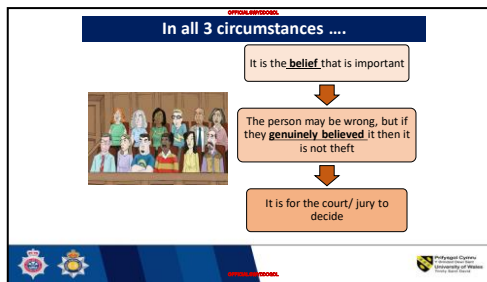
The term 'reasonable steps' will mean different things depending on the property concerned and the circumstances of the incident.

The chances of finding the owner of a valuable, monogrammed ring found after a session here would be considerably greater than those of discovering the owner of a can of beer found outside the Millennium Stadium after a Wales rugby match.

Again it is the defendant's belief at the time of the appropriation that is important, not that the defendant went on to take reasonable steps to discover the person to whom the property belongs.

Note: A person's actions may still be dishonest even if they are willing to pay.

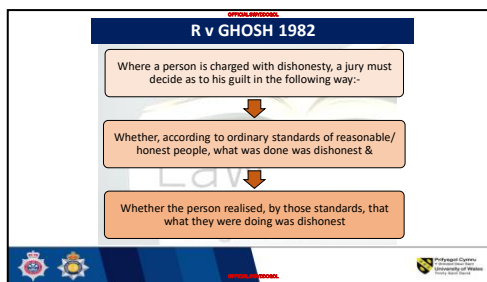
Reference to the case of *R v Ghosh* should be made.



It is for the suspect to prove that their belief in any of the previous points was a genuine belief, no matter how foolish that belief may have been.

The court will make the final decision on this point.

If the criteria regarding 'what is not dishonest' do not assist in determining dishonesty – the judge will apply the test according to R v Ghosh.



This point is particularly relevant in the light of a stated case.

R v GHOSH (1982) where the Court of Appeal sought to clarify what was meant by dishonesty and decide whether, according to the ordinary standards of reasonable and honest people, what was done was dishonest.

If it was not, then the defendant should be acquitted.

However, if it was dishonest by those standards, then the jury must decide whether the person realised that reasonable and honest people would regard what was done as dishonest. If the person did realise this, then they have been dishonest.

A person's taking of property belonging to another may be dishonest notwithstanding that he is willing to pay for it.

A person who takes a bottle of milk from a doorstep but leaves the money is not necessarily to be regarded as honest.

R v GHOSH (1982) – case info

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 –

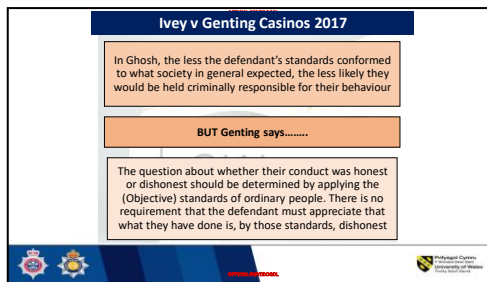
1. Whether, according to the ordinary standards of reasonable and honest people, what was done was dishonest. If it was not, then that was the end of the matter - acquit.
2. However, if it was dishonest by those standards, then the jury must decide whether the person realised that what they were doing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

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

Note:

Ivey v Genting Casino's 2017 Test for dishonesty should be objective and the subjective element of the test for dishonesty in Rv Ghosh 1982 did not correctly represent the law. (Please see PNLD)

- The second part of the test for dishonesty propounded in Ghosh did not correctly represent the law and directions based upon it ought no longer to be given.
- There were a number of serious problems about the second leg of the rule adopted in Ghosh.
- The principal objection 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.
- There was no reason why the law should excuse those who made a mistake about what contemporary standards of honesty were.
- On the contrary, it was an important, even crucial, function of the criminal law to determine what was criminal and what was not; its purpose was to set the standards of behaviour which were acceptable.

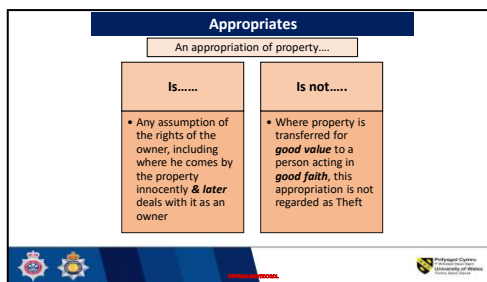


Note:

This case has partly overruled the test outlined in Ghosh

Ivey v Genting Casino's 2017 Test for dishonesty should be objective and the subjective element of the test for dishonesty in Rv Ghosh 1982 did not correctly represent the law.

- The second part of the test for dishonesty propounded in Ghosh did not correctly represent the law and directions based upon it ought no longer to be given.
- There were a number of serious problems about the second leg of the rule adopted in Ghosh.
- 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.
- There was no reason why the law should excuse those who made a mistake about what contemporary standards of honesty were.
- Once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by applying the (objective) standards of ordinary people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.
- On the contrary, it was an important, even crucial, function of the criminal law to determine what was criminal and what was not; its purpose was to set the standards of behaviour which were acceptable.



Section 3 Theft Act 1968 states:

Appropriates means any assumption by a person of the rights of the owner.

This includes where they came by the property, innocently or not, without stealing it, if they later assume a right to the property by keeping it or dealing with it as if they owned it.

E:g you lend your lawnmower to your neighbour before you go on holiday. On your return you find your neighbour has assumed your rights as the owner and sold it for cash. Appropriation has taken place.

E:g A friend gives you a stolen book as a present. A week later you find out about the theft. You decide to keep it and say nothing. You came by the book innocently and without stealing it, but you appropriate it when you decide to keep it and treat it as your own. You have **assumed the right of an owner** although you know it belongs to someone else.

There is an exception; suppose, not knowing of the theft, you bought the book, or exchanged a book of your own for it. What if you later learn of the theft? It would be unfair if you committed theft by keeping the book which you have **purchased for value**.

E:g A person buys a car worth £4000 for £3000 – they would have a defence as they have purchased the vehicle for **value**, whilst **acting in good faith & have assumed rights of owner** by taking reg docs & driving away. However if the same car was bought for £300, the car has been purchased for **value** & the buyer has **assumed the rights of owner** by taking the vehicle but they have **not acted in good faith**

The law recognises this and makes an exception for the person acting in good faith in this way.

In the above circumstances the rights of the original owner of the book would be a matter of civil law and not a matter for the police to decide.

It must be emphasised that in such circumstances, the purchase or exchange must represent 'value' and must be made in good faith.

An appropriation can be for a very short period of time

E:g a thief who takes a purse out of a handbag is immediately disturbed – drops the purse and runs off – will he be deemed to have appropriated the purse?

Theft by consent - R v Lawrence 1982

A tourist had a wallet full of unfamiliar coins – offered it to a taxi driver to remove the correct fare

The taxi driver Lawrence took more than the fare – was convicted of theft even though he had the owner's consent to remove the coins

The victim **CONSENTED** to the taking of the **AMOUNT OWING**

Lawrence **TOOK MORE** – convicted of theft



Section 4 Theft Act 1968 states:

Property includes money and all other property, real or personal

(Real property is fixed and Personal property is not.)

Examples:

Real: All buildings, fixtures, fittings on any land i.e. plants & fences but, not the land itself

Personal: Any property not fixed

Also includes property which is bought, given or homemade.



Things in action and other intangible property (unable to be touched)

include window cleaning rounds, trademarks, patents, copyright, and contents of bank accounts etc.

These are things that have value but no physical substance

This area of theft is quite complicated and one where you might need to seek advice from a supervisor if necessary

GAS CAN BE STOLEN - ELECTRICITY CANNOT (Abstract electricity)

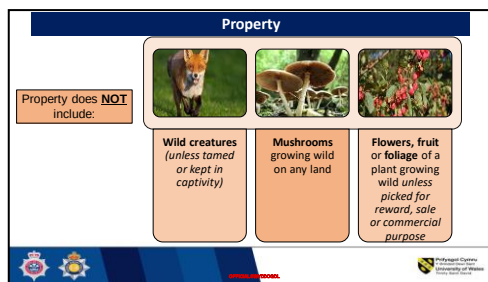
Wild Creatures & Animals

Any animal, which belongs to a person, is property for the purpose of theft.

Thus, animals in zoos, safari parks and domestic pets can all be stolen, even if they are appropriated having escaped from captivity.

Cases involving deer, fish and game, which are not theft, will often be covered by various Acts dealing with poaching.

Either **reduced into possession** or is **in the course of being reduced** into possession eg a fisherman catches a fish and is going to take it home to eat – the fish has been reduced into their possession. It can be stolen.



A person cannot steal a wild creature that has not been tamed or that is ordinarily kept in captivity unless it has been reduced into that other person's possession, and that possession has not been lost or abandoned.

Thus, animals in zoos, safari parks and domestic pets can all be stolen, even if they are appropriated having escaped from captivity.

Cases involving deer, fish and game, which are not theft, will often be covered by various Acts dealing with poaching.

Even if a person is on the land without the consent of the owner. He/she can pick the above that are growing wild without committing theft. However, they must be growing wild.

The term 'pick' does not include uprooting or severing tops off Christmas trees.

Additionally, it does not include digging up flowers in such a manner that they will never grow again.

Foliage is defined as the leaves of a plant or tree, or leaves on the stems or branches on which they are growing

However, if he/she does so for sale, reward or commercial purpose then theft can be committed.

This means that you can go up onto the mountainside and pick some blackberries growing wild. You can then go and make a blackberry tart for tea. You will not commit theft.

However, if you pick the blackberries to make pie to sell at the local village fete , then this is a different matter. You have picked them for a commercial purpose.

However, If you pick the blackberries for a tart to eat and then put that in the freezer for a few months. Then get it out and decide to sell it piece by piece you will not commit theft. Note- this is open to interpretation. It is about the intent at the time of picking.

Property		
As a general rule land cannot be stolen		
Exceptions to the general rule include:		
Trustees	Strangers	Tenant
Trustees or Personal Representatives can steal land by dealing with it in a breach of confidence.	A person not in possession of the land can steal by severing it.	A tenant in possession can steal fixtures and structures.
An executor of an estate selling land for their own benefit.	A enters B's land and removes a stone statue fixed to the land.	A tenant removing a fireplace fixed to the wall from premises that they rent.
BREACH	SEVER	FIXTURES & STRUCTURES

Land

With some exceptions, land cannot be stolen.

If a person complains to you that they have had land taken from them unlawfully, it may initially be a civil matter requiring the advice of a solicitor.

However, criminal offences may also have been committed and you should seek guidance from your supervisor if necessary.

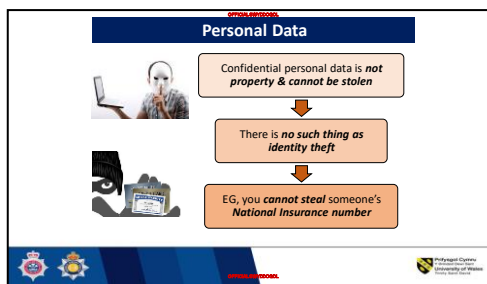
If a person (not in possession of the land) goes onto land and digs up and removes soil, gravel, turf, peat, rocks, etc. these are property and capable of being stolen.

The same will apply if they were taken after the landowner had dug them up.

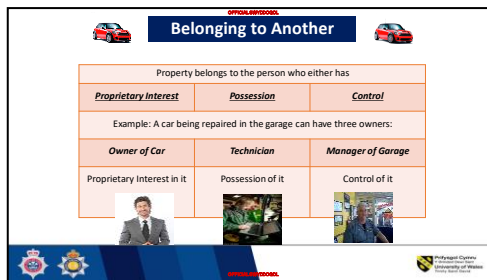
Land cannot be stolen except:

1. by a trustee, personal representative, or a person authorised by power of attorney- breaches confidence
2. Strangers cannot sever – ie cuts down trees
3. Tenants cannot demolish a wall or remove a fireplace because they are fixtures or structures. Other fixtures are washbasins. Thus a tenant can steal a fixture or structure let to be used with the land.

Once a thing has been severed from the land it ceases to be part of the land and may thereafter be the subject of theft in the same way as any other piece of personal property, which it has become.



This would be **FRAUD** through false representation



Section 5 Theft Act 1968

Belonging to another:

The property appropriated must 'belong' to someone other than the person appropriating it or it cannot be stolen.

If the owner throws it away and intends to relinquish their interest in the property and does not intend to pass that interest onto another person then it has no owner; it belongs to no-one and generally it cannot be stolen, even by a person who thinks they are stealing it. Property no longer 'belongs to another' if they abandon it.

Example;

The owner of a car takes it to the garage and asks the manager to resolve a mechanical issue.

He hands over the keys to the manager.

The manager is now in **possession** of the car.

The manager then hands the car over to his apprentice.

Now the manager is in **control** of the car and the apprentice is in **possession** of the car.

All 3 have a '**proprietary interest**' in the car and therefore the car can be stolen from them.

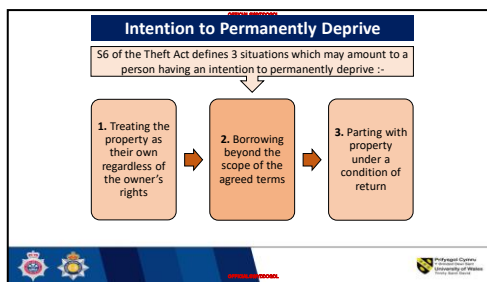
Proprietary Right or interest means ownership (having legal title) of property or similar rights.

Possession is a complex concept, but in general terms it means **having the right to use property as one's own** without having a legal title of ownership.

Possession can be 'actual' (you have the item in your hand or pocket etc.) or

'constructive' (the item is in your living room at home, whilst you are 20 miles away).

Control - means the power to manipulate property without legal title or possession (e.g. The dispatcher of a parcel delivery company will have control of the distribution of the parcels without ownership or possession).



Section 6 Theft Act 1968 - Intention to permanently deprive

Treating the property as their own regardless of owner's rights

- Taking a sandwich from a shop without paying and eating it
- Taking a TV from a store without paying to use at home themselves or sell
- Lending and borrowing over a long time e.g. borrowing a DVD from someone and then lending it to someone else.

Borrowing beyond scope of agreed terms

- Borrowing a season ticket for a football team from a friend for first game of the season only – agreed to return after the game

then keeping the season ticket and using it every week thereafter

Parting with property under a condition for return

- Borrowing a neighbours lawnmower – then pawning the lawnmower for an advance of cash – in the hope of buying back shortly after when paid

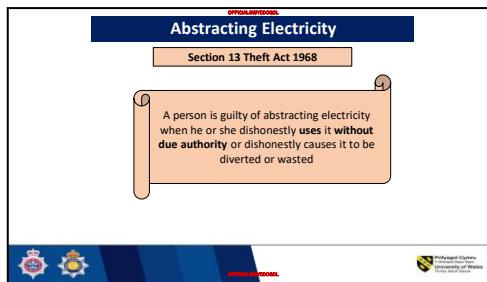
(they **MAY NOT BE ABLE TO PERFORM** the buy back if it is sold in the meantime – intention to permanently deprive made out)

Where a person receives property by mistake they are obliged to restore it to the person who made the mistake, failure to do so will form an intention to permanently deprive the other of that property

Example – too much change in a shop, or receiving payment for overtime which was not worked

In situations where at the time of the appropriation the accused had the intention to permanently deprive another of their property but later has a change of heart and returns the property they will still be guilty of theft (R v McHugh 1993)

The important test is whether the person appropriating the property 'treats it as his own to dispose of regardless of the others rights'. This is normally left to the jury to decide, according to the everyday understanding of the phrase.



Section 13 Theft Act 1968

Activity

Trainer to divide the class into 5 small groups.

Each group is allocated 3 minutes to research the definition of Abstract Electricity (S13 Theft Act 1968).

Students are to memorise the definition of Abstract Electricity and not write anything down at this time.

After three minutes students are to put their phones / research material away.

Trainer to provide students with the first word of the definition which is written on the board.

In their individual groups students are to take it in turns to write one following word from the definition on the board.

This continues until the definition has been written out in full.

For each correct word written, each team gets a point which is collated on the white board.

Electricity is not property that is capable of being appropriated. It is for this reason that abstracting electricity can not be dealt with as straight forward theft.

Uses – implies a consumption of electricity that would not have been used without the act of the accused

Example:

A homeless person warms himself next to a fire that has been **left on** - **NO OFFENCE**

A homeless person warms themselves next to a fire that they **turn on** - **COMMITTS OFFENCE**

Without due authority – without proper authorisation

Examples:

- householder who bypasses his meter when it has been cut off
- squatters who use electricity, with no intention of paying for it, after an officially disconnected supply has been unlawfully reconnected by a third party;
- an employee who used his employer's electrically powered machinery to make things for his own use,
- a person who takes a pedestrian controlled electric vehicle such as a milk float (as this cannot be classed as a conveyance)

Examples of this offence:

- Diverting a domestic electrical supply so as to bypass the meter
- Using another person's telephone without authority
- Unauthorised surfing on the internet by an employee

In each of the above examples **dishonesty** must be present

Who can prove this offence for us?

An official of the electricity company who can tell us

(a): The accused used electricity without authority

(b): The accused caused electricity to be wasted or diverted

Either way offence, 5yrs imprisonment on indictment, 6 mths imprisonment and/or fine summarily

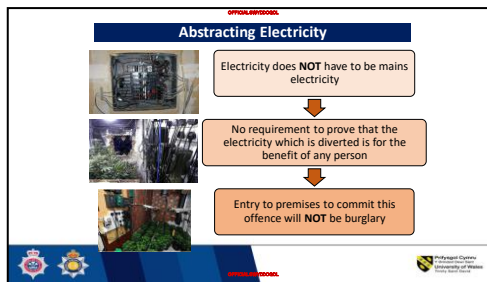
Activity

Students to re-read the definition of Abstract Electricity.

Students to write down the definition without the assistance of any research material.

Students to swap papers with a colleague and mark each other's work.

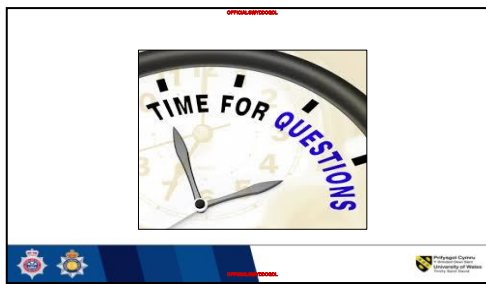
One mark allocated for each correct word.



Electricity: does not have to be mains electricity, it could be electricity from a battery in a torch, car, etc.

There is no requirement that the electricity is used, wasted or diverted for the benefit of any person, thus the offence would be committed if someone, out of mischief, turned on an electric fire before leaving some premises (i.e. dishonestly using or wasting it, without authority, depending on the exact circumstances).

An **entry** into premises only to commit this offence will not amount to [burglary](#). If, however, in the event, having entered, reconnecting a meter causes some damage, it's possible there may be an additional criminal damage charge, or, if the entry was made with the intent of causing [damage](#) to reconnect the meter, burglary could be considered.



Knowledge check

Learners to put books / phones / research material away and attempt the MCQ questions on the following slides individually.

Class discussion around answers provided.

One mark allocated for each correct answer.

Students to re-join their original teams and collate all marks accumulated throughout the course of the day.

OFFICIAL DOCUMENT

Knowledge Check – Scenario 1

A person goes into a shop and dishonestly removes a jumper from the display. They attempt to leave the store without paying. When stopped by a store assistant the person produces £50 pounds and says, "I will pay for the jumper".



Has an offence of theft been committed?


























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10/2018

This question mentions the fact the person acts dishonestly when they appropriate the property (Jumper) from the display, and they show their intent to permanently deprive the owner of it by attempting to leave the store without paying for it.

The fact they have offered to pay for the item when they have been stopped is immaterial because the offence of theft was committed at the time of the dishonest appropriation of the property with the intent to permanently deprive the owner of it.

Whereas, for the Store Detective they usually wait until the person has walked out of the store without paying for the goods before they stop the person and detain them for theft. The question here is whether the person is in the act of **committing/or reasonably suspected to be committing** the theft at the time they are stopped by the Store Detective/Member of Staff, or has the offence **been** committed prior to the person leaving the store? Obviously there may be some difficulties here in actually proving the 'intent to permanently deprive' as the alleged offender may claim they were prevented from paying for the item because of their detention by the store staff.

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Knowledge Check – Scenario 2

Which of the following is **not** property for the purposes of section 4 of the Theft Act 1968?

- A. Money.
- B. Things in action.
- C. Wild creatures normally kept in captivity.
- D. Mushrooms growing wild on any land.





OFFICIAL EXAM DOCUMENT

Police and Crime
Department
London
2023

Answer: D. Mushrooms growing wild on any land.

OFFICIAL ADVISORY

Knowledge Check – Scenario 3

A friend calls at the house one day to see your partner who is not feeling well. Whilst there she runs an errand for your partner, leaving her personal belongings including her purse at your house.

Whilst she is away your partner collapses. You panic and ring for a taxi to take you both to the hospital. When the taxi arrives you realise you do not have any money to pay for it so you take £10 from your friends purse.



Has an offence of theft been committed?



OFFICIAL ADVISORY



If the person has an honestly held belief that if the friend had been aware of the circumstances they would have consented to the money being borrowed in this way, then they will not be deemed to have acted dishonestly, so there is no theft.

www.ck12.com

Knowledge Check – Scenario 4

You pop into your local shop for a newspaper.

The shop is open but nobody is at the till

As you are in a hurry you take the paper and leave the correct money on the counter.



Has an offence of theft been committed?



www.ck12.com



There is unlikely to be a theft here because the person has not acted dishonestly when appropriating this newspaper and has paid the required price for it, and they would have a honestly held belief the owner of the Newsagents would have consented to their taking the paper in these circumstances

OFFICIAL/NOTES

Knowledge Check – Scenario 5

Debbie, goes into a local art gallery where an artist has pictures on display that are for sale. The artist is not in the gallery, but has left a note saying "Back in 10 minutes. Wait for my return if you wish to make a purchase". Debbie estimates a picture for sale at £100 pounds (this is an over estimate as the picture is only worth £50 pounds). Debbie is in a hurry and so leaves the money and takes the picture.



Has an offence of theft been committed?

OFFICIAL/NOTES

Police and Crime Commissioner for Devon and Cornwall

Whilst Debbie has left more than sufficient cash to pay for the picture she has taken, she has clearly gone against the wishes of the owner who has requested people wait for their return if they wish to purchase an item.

In the circumstances Debbie would be unable to claim she had an honestly held belief that the owner would have consented if they had been aware of the circumstances. Having said that it is highly unlikely this person would be dealt with for the offence of theft.

OFFICIAL REVIEW

Knowledge Check – Scenario 6

Geoff goes out shopping. At the shop he realises that his favourite type of coffee has risen in price and is much more expensive than other brands.

When he thinks no-one is looking he swaps the price labels over from one of the cheaper brands onto the jar of his favourite brand.



Has an offence of theft been committed?







In this situation Geoff is clearly acting dishonestly by swapping over the labels and has an intention to permanently deprive the owner of the property, hence theft.

Though there could also be an element of fraud (not yet covered this offence) here because Geoff is making a gain for himself and subjecting another to a loss, when he pays the lower price at the checkout for the jar of coffee.

OFFICIAL DOCUMENT

Knowledge Check – Scenario 7

Mildred picks some blackberries growing wild on farmer Brown's land. She goes home and makes some lovely home made jam.



Has an offence of theft been committed?

OFFICIAL DOCUMENT

Police and Crime Commissioner for Devon and Cornwall

In these circumstances it hinges on Mildred's intent when she picks the blackberries (the appropriation). If her intent is to make jam for her own use at the time of picking then there is no offence of theft. It is arguable as to whether, in these circumstances, it would become an offence of theft if the person later formed an intent to sell the produce.

If, however, her intent is to make jam to sell for reward, or for sale or other commercial gain at the time of picking the berries, then there will be an offence of theft.

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Knowledge Check – Scenario 8

SALLIS enters a shop with OSWALD. SALLIS looks around and sees that the security guard is not looking so she picks up a bottle of wine intending to steal it and places it in OSWALD's open carrier bag which is placed on the shop floor.

OSWALD has no knowledge of this until he picks up the carrier bag which is heavy and checks it. He realises what SALLIS has done and is about to place the wine back on the shelf when he changes his mind and decides to keep it and try to leave the store without paying. On their way out they are stopped by another member of staff.

Has OSWALD committed an offence in these circumstances?

- A. No, OSWALD formed the intent to steal after the appropriating the property.
- B. Yes, OSWALD has committed the offence of handling.
- C. No, SALLIS was the one who committed theft.
- D. Yes, OSWALD has committed an offence of theft in these circumstances.

OFFICIAL DOCUMENT





Police Scotland
Scottish Police Service
www.psd.scot.nhs.uk

Now for some more detailed questions...

Answer: D. Yes, OSWALD has committed an offence of theft in these circumstances

OFFICIAL ANSWERS

Knowledge Check – Scenario 9

WRESCHACK is an early riser and runs out of milk for breakfast. His neighbour, O'BRIEN, has his curtains closed so is still asleep and the local supermarket has just left O'BRIEN's online grocery delivery box outside his back door as requested. WRESCHACK believes that O'BRIEN would consent to him taking a carton of milk from his delivery box so he takes one carton.

Which of the following is correct in relation to an offence of theft, contrary to Section 1 of the Theft Act 1968?

- A. WRESCHACK commits the offence of theft.
- B. WRESCHACK does not commit theft because the appropriation is not dishonest.
- C. WRESCHACK would not commit theft if he left the money for the milk on the doorstep.
- D. WRESCHACK does not commit theft because it is only a small quantity.



Answer: B WRESCHACK does not commit theft because the appropriation is not dishonest.

OFFICIAL EXAM USE ONLY

Knowledge Check – Scenario 10

A fishing contest is taking place on the river. One of the competitors, KILLIP, is not having much success. He notices that another competitor, YAKUB has caught a large carp.

When YAKUB goes for lunch, KILLIP removes the carp from YAKUB's net and places it in his own. KILLIP later presents the carp to the judges of the contest. He wins a third prize trophy.

Do the actions of KILLIP amount to an offence of theft?

- A. No, because the carp is classed as a wild animal.
- B. Yes, because all wild animals constitute 'property'.
- C. No, because the carp has not been taken for a commercial purpose.
- D. Yes, because the carp had been reduced into a person's possession.



Answer: D. Yes, because the carp had been reduced into a person's possession.