

Money laundering

Concealing/disguising/convertng/transferring/removing criminal property from England & Wales

Proceeds of Crime Act 2002 (section 327)

Entering into arrangements concerning criminal property

Proceeds of Crime Act 2002 (section 328)

Acquisition, use and possession of criminal property

Proceeds of Crime Act 2002 (section 329)

Triable either way

Maximum: 14 years' custody

Offence range: Band B fine – 13 years' imprisonment

STEP ONE
Determining the offence category

The court should determine the offence category with reference to the tables 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 to determine the offender's role and the extent to which the offending was planned and the sophistication with which it was carried out.

Culpability demonstrated by one or more of the following:

A – High culpability
A leading role where offending is part of a group activity
Involvement of others through pressure, influence
Abuse of position of power or trust or responsibility
Sophisticated nature of offence/significant planning
Criminal activity conducted over sustained period of time
B – Medium culpability
Other cases where characteristics for categories A or C are not present
A significant role where offending is part of a group activity
C – Lesser culpability
Performed limited function under direction
Involved through coercion, intimidation or exploitation
Not motivated by personal gain
Opportunistic 'one-off' offence; very little or no planning
Limited awareness or understanding of extent of criminal activity

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.

Harm A

Harm is initially assessed by the value of the money laundered.

Category 1
£10 million or more
Starting point based on £30 million
Category 2
£2 million–£10 million
Starting point based on £5 million
Category 3
£500,000–£2 million
Starting point based on £1 million
Category 4
£100,000–£500,000
Starting point based on £300,000
Category 5
£10,000–£100,000
Starting point based on £50,000
Category 6
Less than £10,000
Starting point based on £5,000

Harm B

Money laundering is an integral component of much serious criminality. **To complete the assessment of harm, the court should take into account the level of harm associated with the underlying offence to determine whether it warrants upward adjustment of the starting point within the range, or in appropriate cases, outside the range.**

Where it is possible to identify the underlying offence, regard should be given to the relevant sentencing levels for that offence.

STEP TWO
Starting point and category range

Having determined the category at step one, the court should use the appropriate starting point (as adjusted in accordance with step one above) to reach a sentence within the category range in the table below. The starting point applies to all offenders irrespective of plea or previous convictions.

Where the value is larger or smaller than the amount on which the starting point is based, this should lead to upward or downward adjustment as appropriate.

Where the value greatly exceeds the amount of the starting point in category 1, it may be appropriate to move outside the identified range.

Section 327 Proceeds of Crime Act 2002: Concealing/disguising/converting/transferring/removing criminal property from England & Wales

Section 328 Proceeds of Crime Act 2002: Entering into arrangements concerning criminal property

Section 329 Proceeds of Crime Act 2002: Acquisition, use and possession of criminal property

Maximum: 14 years' custody

Harm	Culpability		
	A	B	C
Category 1 £10 million or more	Starting point 10 years' custody	Starting point 7 years' custody	Starting point 4 years' custody
Starting point based on £30 million	Category range 8 – 13 years' custody	Category range 5 – 10 years' custody	Category range 3 – 6 years' custody
Category 2 £2 million–£10 million	Starting point 8 years' custody	Starting point 5 years' custody	Starting point 3 years 6 months' custody
Starting point based on £5 million	Category range 6 – 9 years' custody	Category range 3 years 6 months' – 7 years' custody	Category range 2 – 5 years' custody
Category 3 £500,000–£2 million	Starting point 7 years' custody	Starting point 5 years' custody	Starting point 3 years' custody
Starting point based on £1 million	Category range 5 – 8 years' custody	Category range 3 – 6 years' custody	Category range 18 months' – 4 years' custody
Category 4 £100,000–£500,000	Starting point 5 years' custody	Starting point 3 years' custody	Starting point 18 months' custody
Starting point based on £300,000	Category range 3 – 6 years' custody	Category range 18 months' – 4 years' custody	Category range 26 weeks' – 3 years' custody
Category 5 £10,000–£100,000	Starting point 3 years' custody	Starting point 18 months' custody	Starting point 26 weeks' custody
Starting point based on £50,000	Category range 18 months' – 4 years' custody	Category range 26 weeks' – 3 years' custody	Category range Medium level community order – 1 year's custody
Category 6 Less than £10,000	Starting point 1 year's custody	Starting point High level community order	Starting point Low level community order
Starting point based on £5,000	Category range 26 weeks' – 2 years' custody	Category range Low level community order – 1 year's custody	Category range Band B fine – Medium level community order

The table below contains a non-exhaustive list of additional factual elements providing the context of the offence and factors relating to the offender.

Identify whether any combination of these or other relevant factors should result in an upward or downward adjustment of the sentence arrived at thus far.

Consecutive sentences for multiple offences may be appropriate where large sums are involved.

Factors increasing seriousness	Factors reducing seriousness or reflecting personal mitigation
<i>Statutory aggravating factors:</i>	No previous convictions or no relevant/recent convictions
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	Remorse
Offence committed whilst on bail	Little or no prospect of success
<i>Other aggravating factors:</i>	Good character and/or exemplary conduct
Attempts to conceal/dispose of evidence	Serious medical conditions requiring urgent, intensive or long-term treatment
Established evidence of community/wider impact	Age and/or lack of maturity where it affects the responsibility of the offender
Failure to comply with current court orders	Lapse of time since apprehension where this does not arise from the conduct of the offender
Offence committed on licence	Mental disorder or learning disability
Offences taken into consideration	Sole or primary carer for dependent relatives
Failure to respond to warnings about behaviour	Offender co-operated with investigation, made early admissions and/or voluntarily reported offending
Offences committed across borders	Determination and/or demonstration of steps having been taken to address addiction or offending behaviour
Blame wrongly placed on others	Activity originally legitimate
Damage to third party for example loss of employment to legitimate employees	

See page 39.

STEP THREE

Consider any factors which indicate a reduction, such as assistance to the prosecution

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

STEP FIVE

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour.

STEP SIX

Confiscation, compensation and ancillary orders

The court must proceed with a view to making a confiscation order if it is asked to do so by the prosecutor or if the court believes it is appropriate for it to do so.

Where the offence has resulted in loss or damage the court must consider whether to make a compensation order.

If the court makes both a confiscation order and an order for compensation and the court believes the offender will not have sufficient means to satisfy both orders in full, the court must direct that the compensation be paid out of sums recovered under the confiscation order (section 13 of the Proceeds of Crime Act 2002).

The court may also consider whether to make ancillary orders. These may include a deprivation order, a financial reporting order, a serious crime prevention order and disqualification from acting as a company director.

STEP SEVEN

Reasons

Section 174 of the Criminal Justice Act 2003 imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.