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Please refer to the guideline(s)
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Benefit fraud

Dishonest representations for obtaining benefit etc

Social Security Administration Act 1992 (section 111A)

Tax Credit fraud

Tax Credits Act 2002 (section 35)

False accounting

Theft Act 1968 (section 17)

Triable either way

Maximum: 7 years' custody

Offence range: Discharge – 6 years 6 months' custody

False representations for obtaining benefit etc

Social Security Administration Act 1992 (section 112)

Triable summarily only

Maximum: Level 5 fine and/or 3 months' custody

Offence range: Discharge – 12 weeks' custody

Fraud by false representation, fraud by failing to disclose information, fraud by abuse of position

Fraud Act 2006 (section 1)

Triable either way

Conspiracy to defraud

Common law

Triable on indictment only

Maximum: 10 years' custody

Offence range: Discharge – 8 years' custody

For reference only.
Please refer to the guideline(s)
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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

B – Medium culpability

- Other cases where characteristics for categories A or C are not present
- Claim not fraudulent from the outset
- A significant role where offending is part of a group activity

C – Lesser culpability

- Involved through coercion, intimidation or exploitation
- Performed limited function under direction

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 – Amount obtained or intended to be obtained

Category 1

£500,000–£2 million
Starting point based on £1 million

Category 2

£100,000–£500,000
Starting point based on £300,000

Category 3

£50,000–£100,000
Starting point based on £75,000

Category 4

£10,000–£50,000
Starting point based on £30,000

Category 5

£2,500–£10,000
Starting point based on £5,000

Category 6

Less than £2,500
Starting point based on £1,000

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STEP TWO
Starting point and category range

Having determined the category at step one, the court should use the appropriate starting point 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.

TABLE 1
Section 111A Social Security Administration Act 1992: Dishonest representations to obtain benefit etc
Section 35 Tax Credits Act 2002: Tax Credit fraud
Section 17 Theft Act 1968: False accounting
Maximum: 7 years' custody

Harm	Culpability		
	A	B	C
Category 1 £500,000 or more	Starting point 5 years 6 months' custody	Starting point 4 years' custody	Starting point 2 years 6 months' custody
Starting point based on £1 million	Category range 4 years' – 6 years 6 months' custody	Category range 2 years 6 months' – 5 years' custody	Category range 15 months' – 3 years 6 months' custody
Category 2 £100,000–£500,000	Starting point 4 years' custody	Starting point 2 years 6 months' custody	Starting point 1 year's custody
Starting point based on £300,000	Category range 2 years 6 months' – 5 years' custody	Category range 15 months' – 3 years 6 months' custody	Category range 26 weeks' – 2 years 6 months' custody
Category 3 £50,000–£100,000	Starting point 2 years 6 months' custody	Starting point 1 year's custody	Starting point 26 weeks' custody
Starting point based on £75,000	Category range 2 years' – 3 years 6 months' custody	Category range 26 weeks' – 2 years 6 months' custody	Category range High level community order – 36 weeks' custody
Category 4 £10,000–£50,000	Starting point 18 months' custody	Starting point 36 weeks' custody	Starting point Medium level community order
Starting point based on £30,000	Category range 36 weeks' – 2 years 6 months' custody	Category range Medium level community order – 21 months' custody	Category range Low level community order – 26 weeks' custody
Category 5 £2,500–£10,000	Starting point 36 weeks' custody	Starting point Medium level community order	Starting point Low level community order
Starting point based on £5,000	Category range Medium level community order – 18 months' custody	Category range Low level community order – 26 weeks' custody	Category range Band B fine – Medium level community order
Category 6 Less than £2,500	Starting point Medium level community order	Starting point Low level community order	Starting point Band A fine
Starting point based on £1,000	Category range Low level community order – 26 weeks' custody	Category range Band A fine – Medium level community order	Category range Discharge – Band B fine

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TABLE 2

Section 112 Social Security Administration Act 1992: False representations for obtaining benefit etc
 Maximum: Level 5 fine and/or 3 months' custody

BENEFIT FRAUD

Harm	Culpability		
	A	B	C
Category 5 Above £2,500	Starting point High level community order	Starting point Medium level community order	Starting point Low level community order
Starting point based on £5,000	Category range Medium level community order – 12 weeks' custody	Category range Band B fine – High level community order	Category range Band A fine – Medium level community order
Category 6 Less than £2,500	Starting point Medium level community order	Starting point Band B fine	Starting point Band A fine
Starting point based on £1,000	Category range Low level community order – High level community order	Category range Band A fine – Band C fine	Category range Discharge – Band B fine

See page 31.

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TABLE 3
Section 1 Fraud Act 2006
Conspiracy to defraud (common law)
 Maximum: 10 years' custody

Harm	Culpability		
	A	B	C
Category 1 £500,000 or more Starting point based on £1 million	Starting point 7 years' custody	Starting point 5 years' custody	Starting point 3 years' custody
	Category range 5 – 8 years' custody	Category range 3 – 6 years' custody	Category range 18 months' – 4 years' custody
Category 2 £100,000–£500,000 Starting point based on £300,000	Starting point 5 years' custody	Starting point 3 years' custody	Starting point 15 months' custody
	Category range 3 – 6 years' custody	Category range 18 months' – 4 years' custody	Category range 26 weeks' – 3 years' custody
Category 3 £50,000–£100,000 Starting point based on £75,000	Starting point 3 years' custody	Starting point 15 months' custody	Starting point 36 weeks' custody
	Category range 2 years 6 months' – 4 years' custody	Category range 36 weeks' – 3 years' custody	Category range 26 weeks' – 1 year's custody
Category 4 £10,000–£50,000 Starting point based on £30,000	Starting point 21 months' custody	Starting point 1 year's custody	Starting point High level community order
	Category range 1 year's – 3 years' custody	Category range High level community order – 2 years' custody	Category range Low level community order – 26 weeks' custody
Category 5 £2,500–£10,000 Starting point based on £5,000	Starting point 1 year's custody	Starting point High level community order	Starting point Medium level community order
	Category range High level community order – 2 years' custody	Category range Low level community order – 26 weeks' custody	Category range Band C fine – High level community order
Category 6 Less than £2,500 Starting point based on £1,000	Starting point High level community order	Starting point Low level community order	Starting point Band B fine
	Category range Low level community order – 26 weeks' custody	Category range Band B fine – Medium level community order	Category range Discharge – Band C fine

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 any further upward or downward adjustment from the starting point.

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

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

Other aggravating factors:

Claim fraudulent from the outset

Proceeds of fraud funded lavish lifestyle

Length of time over which the offending was committed

Number of false declarations

Attempts to conceal/dispose of evidence

Failure to comply with current court orders

Offence committed on licence

Offences taken into consideration

Failure to respond to warnings about behaviour

Blame wrongly placed on others

Damage to third party (for example as a result of identity theft)

Factors reducing seriousness or reflecting personal mitigation

No previous convictions **or** no relevant/recent convictions

Remorse

Good character and/or exemplary conduct

Serious medical condition requiring urgent, intensive or long term treatment

Legitimate entitlement to benefits not claimed

Little or no prospect of success

Age and/or lack of maturity where it affects the responsibility of the offender

Lapse of time since apprehension where this does not arise from the conduct of the offender

Mental disorder or learning disability

Sole or primary carer for dependent relatives

Offender co-operated with investigation, made early admissions and/or voluntarily reported offending

Determination and/or demonstration of steps having been taken to address addiction or offending behaviour

Offender experiencing significant financial hardship or pressure at time fraud was committed due to **exceptional** circumstances

See page 33.

For reference only.
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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 any ancillary orders.

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.

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Money laundering

Concealing/disguising/converting/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

For reference only.
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on the Sentencing Council website:
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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.

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
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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 6 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

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

Other aggravating factors:

Attempts to conceal/dispose of evidence

Established evidence of community/wider impact

Failure to comply with current court orders

Offence committed on licence

Offences taken into consideration

Failure to respond to warnings about behaviour

Offences committed across borders

Blame wrongly placed on others

Damage to third party for example loss of employment to legitimate employees

Factors reducing seriousness or reflecting personal mitigation

No previous convictions **or** no relevant/recent convictions

Remorse

Little or no prospect of success

Good character and/or exemplary conduct

Serious medical conditions requiring urgent, intensive or long-term treatment

Age and/or lack of maturity where it affects the responsibility of the offender

Lapse of time since apprehension where this does not arise from the conduct of the offender

Mental disorder or learning disability

Sole or primary carer for dependent relatives

Offender co-operated with investigation, made early admissions and/or voluntarily reported offending

Determination and/or demonstration of steps having been taken to address addiction or offending behaviour

Activity originally legitimate

See page 39.

For reference only.
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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.

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Bribery

Bribing another person

Bribery Act 2010 (section 1)

Being bribed

Bribery Act 2010 (section 2)

Bribery of foreign public officials

Bribery Act 2010 (section 6)

Triable either way

Maximum: 10 years' custody

Offence range: Discharge – 8 years' custody

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.

Harm is assessed in relation to any impact caused by the offending (whether to identifiable victims or in a wider context) and the actual or intended gain to the offender.

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 significant power or trust or responsibility

Intended corruption (directly or indirectly) of a senior official performing a public function

Intended corruption (directly or indirectly) of a law enforcement officer

Sophisticated nature of offence/significant planning

Offending conducted over sustained period of time

Motivated by expectation of substantial financial, commercial or political gain

B – Medium culpability

All 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

Involved through coercion, intimidation or exploitation

Not motivated by personal gain

Peripheral role in organised activity

Opportunistic 'one-off' offence; very little or no planning

Limited awareness or understanding of extent of corrupt 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 demonstrated by one or more of the following factors:

Category 1

- Serious detrimental effect on individuals (for example by provision of substandard goods or services resulting from the corrupt behaviour)
- Serious environmental impact
- Serious undermining of the proper function of local or national government, business or public services
- Substantial actual or intended financial gain to offender or another or loss caused to others

Category 2

- Significant detrimental effect on individuals
- Significant environmental impact
- Significant undermining of the proper function of local or national government, business or public services
- Significant actual or intended financial gain to offender or another or loss caused to others
- Risk of category 1 harm

Category 3

- Limited detrimental impact on individuals, the environment, government, business or public services
- Risk of category 2 harm

Category 4

- Risk of category 3 harm

Risk of harm involves consideration of both the likelihood of harm occurring and the extent of it if it does. Risk of harm is less serious than the same actual harm. Where the offence has caused risk of harm but no (or much less) actual harm, the normal approach is to move to the next category of harm down. This may not be appropriate if either the likelihood or extent of potential harm is particularly high.

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STEP TWO
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 convictions.

Section 1 Bribery Act 2010: Bribing another person
Section 2 Bribery Act 2010: Being bribed
Section 6 Bribery Act 2010: Bribery of foreign public officials
 Maximum: 10 years' custody

BRIBERY

Harm	Culpability		
	A	B	C
Category 1	Starting point 7 years' custody	Starting point 5 years' custody	Starting point 3 years' custody
	Category range 5 – 8 years' custody	Category range 3 – 6 years' custody	Category range 18 months' – 4 years' custody
Category 2	Starting point 5 years' custody	Starting point 3 years' custody	Starting point 18 months' custody
	Category range 3 – 6 years' custody	Category range 18 months' – 4 years' custody	Category range 26 weeks' – 3 years' custody
Category 3	Starting point 3 years' custody	Starting point 18 months' custody	Starting point 26 weeks' custody
	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 4	Starting point 18 months' custody	Starting point 26 weeks' custody	Starting point Medium level community order
	Category range 26 weeks' – 3 years' custody	Category range Medium level community order – 1 year's custody	Category range Band B fine – High level community order

See page 44.

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 from the starting point.

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

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

Other aggravating factors:

Steps taken to prevent victims reporting or obtaining assistance and/or from assisting or supporting the prosecution

Attempts to conceal/dispose of evidence

Established evidence of community/wider impact

Failure to comply with current court orders

Offence committed on licence

Offences taken into consideration

Failure to respond to warnings about behaviour

Offences committed across borders

Blame wrongly placed on others

Pressure exerted on another party

Offence committed to facilitate other criminal activity

Factors reducing seriousness or reflecting personal mitigation

No previous convictions **or** no relevant/recent convictions

Remorse

Good character and/or exemplary conduct

Little or no prospect of success

Serious medical conditions requiring urgent, intensive or long-term treatment

Age and/or lack of maturity where it affects the responsibility of the offender

Lapse of time since apprehension where this does not arise from the conduct of the offender

Mental disorder or learning disability

Sole or primary carer for dependent relatives

Offender co-operated with investigation, made early admissions and/or voluntarily reported offending

See page 45.

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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.

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Corporate Offenders: Fraud, Bribery and Money Laundering

Fraud

Conspiracy to defraud (common law)
Cheat the public revenue (common law)

Triable only on indictment

Fraud Act 2006 (sections 1, 6 and 7)
Theft Act 1968 (section 17)
Value Added Tax Act 1994 (section 72)
Customs and Excise Management Act 1979 (section 170)

Triable either way

Bribery

Bribery Act 2010 (sections 1, 2, 6 and 7)

Triable either way

Money laundering

Proceeds of Crime Act 2002 (sections 327, 328 and 329)

Triable either way

Maximum: Unlimited fine

Most cases of corporate offending in this area are likely to merit allocation for trial to the Crown Court.

Committal for sentence is mandatory if confiscation (see step two) is to be considered. (Proceeds of Crime Act 2002 section 70).

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STEP ONE Compensation

The court must consider making a compensation order requiring the offender to pay compensation for any personal injury, loss or damage resulting from the offence in such an amount as the court considers appropriate, having regard to the evidence and to the means of the offender.

Where the means of the offender are limited, priority should be given to the payment of compensation over payment of any other financial penalty.

Reasons should be given if a compensation order is not made.

(See section 130 Powers of Criminal Courts (Sentencing) Act 2000)

STEP TWO Confiscation

Confiscation must be considered if either the Crown asks for it or the court thinks that it may be appropriate.

Confiscation must be dealt with before, and taken into account when assessing, any other fine or financial order (except compensation).

(See Proceeds of Crime Act 2002 sections 6 and 13)

See page 49.

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
www.sentencingcouncil.org.uk

STEP THREE
Determining the offence category

The court should determine the offence category with reference to **culpability** and **harm**.

Culpability

The sentencer should weigh up all the factors of the case to determine **culpability**. **Where there are characteristics present which fall under different categories, the court should balance these characteristics to reach a fair assessment of the offender’s culpability.**

Culpability demonstrated by the offending corporation’s role and motivation. May be demonstrated by one or more of the following **non-exhaustive** characteristics.

A – High culpability

- Corporation plays a leading role in organised, planned unlawful activity (whether acting alone or with others)
- Wilful obstruction of detection (for example destruction of evidence, misleading investigators, suborning employees)
- Involving others through pressure or coercion (for example employees or suppliers)
- Targeting of vulnerable victims or a large number of victims
- Corruption of local or national government officials or ministers
- Corruption of officials performing a law enforcement role
- Abuse of dominant market position or position of trust or responsibility
- Offending committed over a sustained period of time
- Culture of wilful disregard of commission of offences by employees or agents with no effort to put effective systems in place (section 7 Bribery Act only)

B – Medium culpability

- Corporation plays a significant role in unlawful activity organised by others
- Activity not unlawful from the outset
- Corporation reckless in making false statement (section 72 VAT Act 1994)
- All other cases where characteristics for categories A or C are not present

C – Lesser culpability

- Corporation plays a minor, peripheral role in unlawful activity organised by others
- Some effort made to put bribery prevention measures in place but insufficient to amount to a defence (section 7 Bribery Act only)
- Involvement through coercion, intimidation or exploitation

Harm

Harm is represented by a financial sum calculated by reference to the table below

Amount obtained or intended to be obtained (or loss avoided or intended to be avoided)

Fraud	For offences of fraud, conspiracy to defraud, cheating the Revenue and fraudulent evasion of duty or VAT, harm will normally be the actual or intended gross gain to the offender.
Bribery	For offences under the Bribery Act the appropriate figure will normally be the gross profit from the contract obtained, retained or sought as a result of the offending. An alternative measure for offences under section 7 may be the likely cost avoided by failing to put in place appropriate measures to prevent bribery.
Money laundering	For offences of money laundering the appropriate figure will normally be the amount laundered or, alternatively, the likely cost avoided by failing to put in place an effective anti-money laundering programme if this is higher.
General	Where the actual or intended gain cannot be established, the appropriate measure will be the amount that the court considers was likely to be achieved in all the circumstances. In the absence of sufficient evidence of the amount that was likely to be obtained, 10–20 per cent of the relevant revenue (for instance between 10 and 20 per cent of the worldwide revenue derived from the product or business area to which the offence relates for the period of the offending) may be an appropriate measure. There may be large cases of fraud or bribery in which the true harm is to commerce or markets generally. That may justify adopting a harm figure beyond the normal measures here set out.

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
www.sentencingcouncil.org.uk