

Blackmail

Theft Act 1968 (section 21)

Triable only on indictment

Maximum: 14 years' custody

Offence range: x – xx years' custody

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

STEP ONE

Determining the offence category

The court should determine the offence category with reference only to the factors in the table 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. **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.**

CULPABILITY

Demonstrated by one or more of the following:

A- High Culpability	<ul style="list-style-type: none">• Conduct <u>repeated or prolonged</u> over a <u>substantial sustained</u> period of time• Sophisticated and/or planned nature of conduct• Deliberate targeting of particularly vulnerable victim <u>and/or their family</u>• Use of violence
B- Medium culpability	<ul style="list-style-type: none">• Violence threatened• Other cases that fall between categories A and C because:<ul style="list-style-type: none">○ Factors are present in A and C which balance each other out and/or○ The offender's culpability falls between the factors described in A and C
C- Lower culpability	<ul style="list-style-type: none">• Unplanned and/or Offence was limited in scope and duration• Involved through coercion, intimidation or exploitation• Offender's responsibility substantially reduced by mental disorder or learning disability

HARM

The level of harm is assessed by weighing up all the factors in the case.

Category 1	<ul style="list-style-type: none">• Serious distress <u>and or psychological harm</u> caused to the victim <u>and/or others</u>• Serious distress caused to others• Very large amount of money obtained• Serious consequential financial impact of the offence• <u>Property demanded or obtained is of substantial value (financial or otherwise) regardless of monetary worth to the victim and/or others</u>• Widespread public impact of the offence
Category 2	<ul style="list-style-type: none">• Some distress <u>and/or psychological harm</u> caused to the victim <u>and/or others</u>• Some distress caused to others

	<ul style="list-style-type: none"> • Some consequential financial impact of the offence • Considerable amount of money obtained • <u>Property demanded or obtained is of some value (financial or otherwise) regardless of monetary worth to the victim and/or others</u>
Category 3	<ul style="list-style-type: none"> • Limited effects of the offence • <u>Property demanded or obtained is of a small amount (financial or otherwise) regardless of monetary worth to the victim and/or others</u>

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

Harm	Culpability		
	A	B	C
Category 1	Starting Point 7 8 years' custody Category Range 4 - 1 2 0 years' custody	Starting Point 4 years' custody Category Range 2 - 6 8 years' custody	Starting Point 2 years' custody Category Range 1 - 4 5 years' custody
Category 2	Starting Point 4 years' custody Category Range 2 - 6 8 years' custody	Starting Point 2 years' custody Category Range 1 - 4 5 years' custody	Starting Point 1 years' custody Category Range 6 months' - 2 years' custody
Category 3	Starting Point 2 years' custody Category Range 1 - 4 5 years' custody	Starting Point 1 years' custody Category Range 6 months' - 2 years' custody	Starting Point 6 months' custody Category Range High level Community order - 1 year's custody

[Where another offence or offences arise out of the same incident or facts concurrent sentences **reflecting the overall criminality** of offending will ordinarily be appropriate: please refer to the Totality guideline and step five of this guideline.]

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

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
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors:

- ~~Disturbing nature of the threat(s)~~
- Conduct intended to maximise distress and/or humiliation
- Offence committed in context of/in connection with ~~related to~~ other criminal activity
- Abuse of trust or dominant position or abuse of confidential information
- As a result of the offence victim (as a public official) forced to abuse their position
- Offence involved use or threat of a weapon
- Other(s) put at risk of harm by the offending
- Blame wrongly placed on others
- Offence committed in a domestic context (where not taken into account at step one)
- Commission of offence whilst under the influence of alcohol or drugs
- Leading role in group
- Offender involves others in the conduct
- Offence committed on licence or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- Remorse
- The offender was in a lesser or subordinate role if acting with others/performed limited role under direction
- Good character and/or exemplary conduct
- ~~Co-operation with the investigation/early admissions~~
- Physical disability or serious medical conditions requiring urgent, intensive or long-term treatment
- Mental disorder or learning disability (where not taken into account at step 1)
- Age and/or lack of maturity
- Sole or primary carer for dependent relatives
- Determination and/or demonstration of steps having been taken to address addiction or offending behaviour

STEP 3

Consider any factors which indicate a reduction for assistance to the prosecution

The court should take into account [section 74 of the Sentencing Code](#) (reduction in sentence for assistance to prosecution) 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 4

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with [section 73 of the Sentencing Code](#) and the [Reduction in Sentence for a Guilty Plea guideline](#).

STEP 5

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 in accordance with the [Totality](#) guideline.

STEP 6

Compensation, [confiscation](#) and ancillary orders

Confiscation orders under the Proceeds of Crime Act 2002 may only be made by the Crown Court. The Crown Court must proceed with a view to making a confiscation order if it is asked to do so by the prosecutor or if the Crown Court believes it is appropriate for it to do so.

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)

Where the offence has resulted in loss or damage the court must consider whether to make a **compensation order**. The court must give reasons if it decides not to award compensation in such cases ([Sentencing Code, s.55](#)).

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 serious crime prevention order and disqualification from acting as a company director.

Serious Crime Prevention Order

The Crown Court may consider the criteria in section 19 of the Serious Crime Act 2007 for the imposition of a Serious Crime Prevention Order.

- [Ancillary orders - Crown Court Compendium](#)

STEP 7**Reasons**

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP 8**Consideration for time spent on bail (tagged curfew)**

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and [section 325 of the Sentencing Code](#).

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