

## MONEY LAUNDERING Volume 2

### 292.2 Sentencing Guidelines Council guideline

*Fraud, Bribery and Money Laundering Offences Guideline 2014*, see [www.banksr.com](http://www.banksr.com) Other matters Guideline tab The guideline applies to [Proceeds of Crime Act 2002 s 327, 328 and 329](#). In force 1 October 2014.

### 292.5 Criminal conduct etc. money Up to £20,000

*R v Sowden 2014 EWCA Crim 1419* D pleaded late to possession of criminal property. V was tricked into giving his bank account details to someone who phoned him. About £4,000 was transferred to D's bank account in two amounts. D's basis of plea was he did not benefit from the bulk of the money and his reward was €200. D was 24 and of good character. He was assessed as suitable for doing unpaid work. The Judge found V had been caused considerable distress and found D's account to the probation officer was a calculated attempt to deceive. She started at 50 weeks and with plea made it 45 weeks and then with the mitigation came to **32 weeks**. Counsel said immediate imprisonment was wrong. Held. We agree with the single Judge who wrote it is not inevitable 9 months must be immediate but it wasn't wrong.

Note: The maths is wrong here. 32 weeks is 8 months and sentencing Judge should have deducted the plea discount after the mitigation discount. This meant the discount was larger than it should have been. Interesting the court was surprised to learn D had been released after only 8 weeks. Ed.

### 292.6 Criminal conduct etc. money £20,000 to £100,000

*R v Imasuen 2014 EWCA Crim 1256* D pleaded to 14 counts of money laundering. He laundered the proceeds of two advance fee frauds. V1, an Australian retired civil servant, was told that a relative had died leaving him a large inheritance. He was persuaded to pay for lawyers and other fees. V1 lost just over £64,000. V2, an American was lured into a similar scam and lost about £31,000. The proceeds from both frauds passed through D's bank account. He was paid 10% of the funds making £9,500. D, aged 33 and originally from Nigeria, was a student with no convictions since his arrival in the UK in 2010. He claimed to know nothing of the details of the fraud. Held. This was a truly dreadful deceit on hapless victims. D was the facilitator of the fraud but not central to the conspiracy. Starting at 4 years, with full plea credit, **2 years 8 months** not 4 years.

### 292.12 Drug money Class a drugs More than £1m

*R v Barnett and Keenan 2014 EWCA Crim 208* B and K pleaded to converting criminal property. K also pleaded to making an untrue statement to obtain a passport and possession of articles for use in fraud. In 2009, B was stopped near Marble Arch with a satchel containing €535,400 (in large denominations of €500 notes) and £1,500. The documentation found on him revealed he had just changed £488,000 for Euros at a nearby exchange. B had been engaged to change money using an account that K set up in 2008. False documents were used by K to set up the account. Among those documents was a genuine passport of B. K had applied for an MSB (money service business) licence and with the trading account established in 2008, he was able to go to other MSB traders who were offering advantageous rates and change large sums of money that others had provided to him. The Judge concluded that overall £19.5m had passed through K's business in a 22-month period. K believed that the money he was laundering came from illegal gambling but soon after realised that it was from a source of really serious crime, namely class A drug dealing. B personally exchanged £5m but his role may not have been limited to that. He was aware of the larger scale activity and there was some reason to believe that later on he knew of the false documentation used by K. B's basis of plea averred that he became involved in early 2009. B

was aged 49 at appeal with no convictions. K, aged 41 at appeal, had fraud and blackmail convictions in 2006 but had failed to disclose these when applying for an MSB licence. The appeal was heard in 2014 due to an application to stand the appeal out pending confiscation proceedings. K had subsequently suffered serious health issues. Held. K's previous conviction, the breach of licence, the fraudulent activity to set up the company using false documents, his realisation that the money had come from class A drug dealing and the vast sums of money were aggravating features. K's sentence of **11 years** (with 15% credit) was certainly at the top of the range but it was not wrong in principle nor manifestly excessive. B's role and culpability was materially different. B was an assistant and courier. At least 40 times he took cash to the exchange and on eight of those occasions he was carrying over £400,000. He was involved for a lesser period than K and was not a knowing party to the company. He was an assistant not the principal organiser. With something less than 25% credit (for pleading at the PCMH), **5 years** not 6.

**292.14a**      *Drug money*    *More than £1m*      *Class of drug not determined*

*R v Gibson* 2014 EWCA Crim 301 D was convicted of money laundering. He was seen to drive his van to a car park in Blackburn where he had a conversation with a man who was under police surveillance. The man got into the van and they drove around for about 8 minutes before the man left the vehicle. D then drove to a service station on the motorway. He went to the rear of the van, opened the back door and returned to the driver's door. He then returned to the back of the van then wearing a pair of orange gloves. He closed the van door and went in to the service station. He returned 20 minutes later and continued his journey. He was stopped on the motorway and police discovered two holdalls in the rear of the van. They contained £621,285. Over £570,000 was in vacuum wraps, with the remaining £50,000 in loose notes. D claimed he had been delivering goods in accordance with his legitimate business, a company involved in transporting goods from Spain to England for returning expatriates. D delivered four boxes to an address and received the two holdalls in return. The Judge found that he made that delivery knowing that he was moving the proceeds of drug crime. The Judge considered that because of D's legitimate business, he was the perfect conduit for the proceeds of crime. D was of good character and had a good prison report. Held. The Judge was perfectly entitled to come to that conclusion. One of the reasons that a person like D is chosen to launder money is that he is respectable. **4½ years** not 5½.