

**Fraud Offences –
Applying the definitive guidelines effective from 1 October 2014**

F was convicted at trial of **fraud by false representation**.

Guideline Note

This offence would be sentenced using the fraud guideline (from page 5 of the definitive guideline). The relevant sentencing table will be Table 1 on page 8.

F approached Mrs V (aged 85 and frail) and offered to clear her gutters for £75, which he did. He told her that there were problems with her roof which he could repair for £2,000. He convinced her that the roof needed to be repaired urgently and she used nearly all her savings to pay him.

Guideline Note

In this case culpability would be assessed as A – high culpability because F targeted the victim on the basis of her vulnerability.

A surveyor valued the work on the roof at less than £100. Mrs V's confidence was severely affected and she was unable to continue to live independently.

Guideline Note

Harm in this guideline has two sections: Harm A and Harm B.

At Harm A the offence is categorised according to the financial loss to the victim. On this basis it would be Category 5 as the amount defrauded was less than £5,000.

At Harm B the court should then consider the impact on the victim(s) to see whether the harm category should be adjusted. In this case the victim impact would be assessed as high – as the detrimental effect on the victim was serious and she was particularly vulnerable.

The guideline directs the sentencer to move up to the corresponding point in the next category. This means that the harm category is category 4.

Guideline Note

Using the assessment of culpability (A) and harm (4) the starting point in table 1 is 18 months' custody. This starting point is based on an amount defrauded of £2,500 (taken from category 5). The actual amount defrauded was £2,000. The information at the top of page 8 instructs the sentencer to move upwards or downwards from the starting point if the actual amount is different to the amount on which the starting point is based. So in this case the starting point should be a little below the starting point given – say, 15 months.

F, aged 35, has recent previous convictions for motoring offences and possession of cannabis, and convictions from nine years ago for theft and criminal damage. He lives with his partner and two children in rented accommodation. He has had a series of short term jobs in the last year, but is currently on benefits.

Guideline Note

On page 10 of the guideline there is a list of aggravating factors (which may increase the sentence) and mitigating factors (which may decrease the sentence) for the court to consider. The court may also consider other relevant factors that are not listed.

The statutory aggravating factor of previous convictions probably would not apply in this case as he has not recent relevant convictions.

No reduction would be made for a guilty plea as he was convicted after a trial.

The likely sentence would therefore be 15 months' custody.