

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

B has pleaded guilty at the first hearing to **fraud by false representation**. He was purporting to collect money for a popular local children's charity in a shopping centre.

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.

He had a collection tin for the charity and some of their stickers. He was not an authorised collector for the charity. Police were alerted by suspicious shop keepers and he was arrested.

Guideline Note

In this case culpability would be assessed as B – medium culpability because none of the factors in A – high culpability or C – lesser culpability is present.

He had £7.23 in his collection tin.

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(s). 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 victims are the donors who put money in the tin and the charity whose reputation could be harmed by bogus collectors. As the amount collected was so small it is unlikely to have had more than minimal impact on the donors or the charity. Harm B would be assessed as lesser impact and so no adjustment would be made.

He stated in police interview that he was an alcoholic and intended to use the money to buy cider.

Guideline Note

Using the assessment of culpability (B) and harm (5) the starting point in table 1 is a medium level community order based on an amount defrauded of £2,500. The category range is Band B fine to 26 weeks' custody.

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 would move to the bottom to the range which is a Band B fine.

He is a 45 year old man who lives in a hostel run by a homeless charity. He has 20 previous convictions for offences of dishonesty (theft or fraud) and six convictions for being drunk and disorderly. The most recent conviction was 3 months ago when he was fined £50 for stealing a bottle of cider from a shop. He is not currently subject to any orders.

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 applies in this case. He has a bad record for similar low level offending. In mitigation it can be seen that he cooperated with police and made frank admissions.

The sentence is likely to be increased from the starting point of a Band B fine taking into account his bad record. The court would be likely to seek a report from the probation service as to whether he would be suitable for a community order.

His early guilty plea will result in a one third discount on the final sentence.