

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

G pleaded guilty to **fraud by false representation** at the first court hearing

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.

G obtained a mortgage from a bank of £300,000 to buy a house by grossly inflating his income and falsifying a letter from his employer.

Guideline Note

In this case culpability would be assessed as B – medium culpability because although there was some degree of planning (as evidenced by the forging of the letter) this would not amount to a sophisticated offence/ significant planning so none of the factors in A – high culpability or C – lesser culpability applies.

He had intended to keep up the repayments but was unable to do so. The house was repossessed and the actual loss to the bank was under £5,000.

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. The narrative in the box on **risk of loss** on page 7 of the guideline explains how to deal with situations such as this where the fraud involved a risked loss but much less actual loss. On this basis the correct category would be Category 3 as the fraud involved a risk of category 2 harm (i.e. a risked loss of £300,000).

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 there is no significant impact on the victim (the bank) beyond the financial loss.

This means that the harm category is category 3.

Guideline Note

Using the assessment of culpability (B) and harm (3) the starting point in table 1 is 18 months' custody.

G has no previous convictions. He cooperated fully with the investigation into the offence. He has references which show he is a hard working family man and that this offence is out of character. He is very remorseful. He has a full time job and a wife and two young children.

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.

There are no aggravating factors which apply in this case and there are a number of mitigating factors (no previous convictions, remorse, co-operation with investigation).

These factors would reduce the likely sentence to 12 months.

The sentence would be reduced by one third for the guilty plea.

The likely sentence would therefore be 8 months' custody, and in this case the court would consider whether a suspended sentence order would be appropriate.