

Sentencing trends in  
the higher courts of  
Victoria  
2015–16 to 2019–20

April 2021  
No. 254

## Obtaining a financial advantage by deception

### Introduction

This Sentencing Snapshot describes sentencing outcomes<sup>1</sup> for the offence of obtaining a financial advantage by deception in the County and Supreme Courts of Victoria (the higher courts) from 2015–16 to 2019–20.<sup>2</sup> Adjustments made by the Court of Appeal to sentence or conviction as at June 2020 have been incorporated into the data in this Snapshot.

Detailed data on obtaining a financial advantage by deception and other offences is available on [Sentencing Advisory Council Statistics \(SACStat\)](#).

A person who, by any deception, dishonestly obtains any financial advantage for themselves or another person is guilty of obtaining a financial advantage by deception. Obtaining a financial advantage by deception is an indictable offence that carries a maximum penalty of 10 years' imprisonment and/or a fine of up to 1,200 penalty units.<sup>3</sup> It can be tried summarily in the Magistrates' Court if certain criteria are met.<sup>4</sup>

This Snapshot focuses on cases where obtaining a financial advantage by deception was the principal offence, that is, cases where obtaining a financial advantage by deception was the offence that received the most severe sentence.<sup>5</sup>

Obtaining a financial advantage by deception was the principal offence in 1.8% of cases sentenced in the higher courts between 2015–16 and 2019–20.

### People sentenced

From 2015–16 to 2019–20, 157 people were sentenced in the higher courts for a principal offence of obtaining a financial advantage by deception.

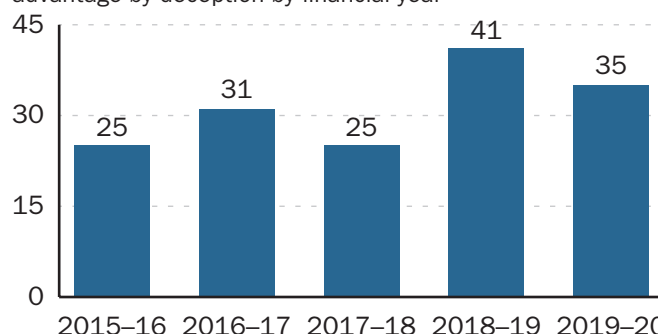
Figure 1 shows the number of people sentenced for the principal offence of obtaining a financial advantage by deception by financial year. There were 35 people sentenced for this offence in 2019–20, down by 6 people from the previous year. The number of people sentenced was highest in 2018–19 (41 people) and lowest in both 2015–16 and 2017–18 (25 people).

### Sentence types and trends

Figure 2 shows the proportion of people who received a custodial sentence and non-custodial sentence for the principal offence of obtaining a financial advantage by deception.

A custodial sentence involves at least some element of immediate imprisonment or detention.<sup>6</sup> Over the five-year period, 65.0% of people were given a custodial sentence. The highest proportion of custodial sentences was handed down in 2016–17 (80.6%). The proportion of people who received a custodial sentence in 2019–20 was 71.4%, up from 61.0% in the previous year.

**Figure 1:** The number of people sentenced for obtaining a financial advantage by deception by financial year



**Figure 2:** The percentage of people who received a custodial sentence and non-custodial sentence for obtaining a financial advantage by deception by financial year

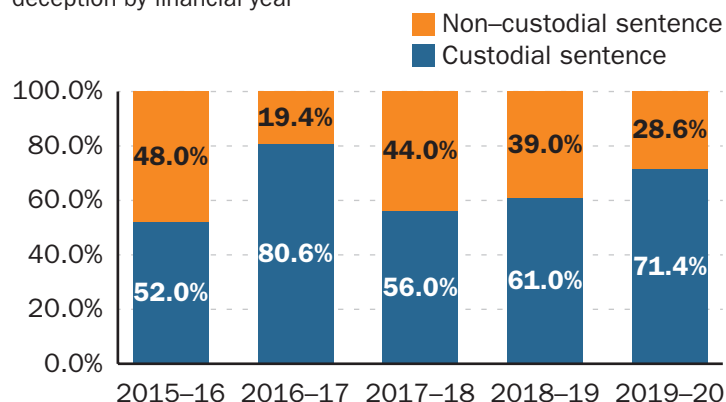


Table 1 shows the number of people sentenced for obtaining a financial advantage by deception from 2015–16 to 2019–20 by the most serious type of sentence imposed.<sup>7</sup> The availability of different sentence types has changed over time. Most notably, wholly and partially suspended sentences have now been abolished.<sup>8</sup> Changes to community correction orders may have also influenced the sentencing trends over the five years covered by this Snapshot.<sup>9</sup>

Over the five-year period, the majority of people sentenced for obtaining a financial advantage by deception received a principal sentence of imprisonment (63.1% or 99 of 157 people). The *principal sentence* is the sentence imposed for the charge that is the principal offence. The proportion of imprisonment sentences fluctuated over the five years, ranging from 48.0% in 2015–16 to 80.6% in 2016–17.

**Table 1:** The number and percentage of people sentenced for obtaining a financial advantage by deception by principal sentence type and financial year

Sentence type	2015–16	2016–17	2017–18	2018–19	2019–20	Total
Imprisonment	12 (48.0%)	25 (80.6%)	14 (56.0%)	24 (58.5%)	24 (68.6%)	99 (63.1%)
Community correction order	8 (32.0%)	5 (16.1%)	7 (28.0%)	11 (26.8%)	6 (17.1%)	37 (23.6%)
Fine	1 (4.0%)	0 (0.0%)	1 (4.0%)	0 (0.0%)	0 (0.0%)	2 (1.3%)
Other	4 (16.0%)	1 (3.2%)	3 (12.0%)	6 (14.6%)	5 (14.3%)	19 (12.1%)
<b>Total people sentenced</b>	<b>25</b>	<b>31</b>	<b>25</b>	<b>41</b>	<b>35</b>	<b>157</b>

## Principal and total effective sentences of imprisonment

The principal sentence describes sentences for the offence at a **charge** level (as described in the previous section). The total effective sentence describes sentences at a **case** level.

The total effective sentence in a case with a single charge is the principal sentence. The total effective sentence in a case with multiple charges is the sentence that results from the court ordering the individual sentences for each charge to be served concurrently (at the same time) or wholly or partially cumulatively (one after the other).

Where a case involves multiple charges, the total effective sentence imposed on a person is sometimes longer than the principal sentence. Principal sentences for obtaining a financial advantage by deception must be considered in this broader context.

The following sections analyse the use of imprisonment for the offence of obtaining a financial advantage by deception from 2015–16 to 2019–20.

### Principal sentence of imprisonment

Table 2 shows that a total of 99 people received a principal sentence of imprisonment for obtaining a financial advantage by deception.

**Table 2:** The number and percentage of people sentenced to imprisonment for obtaining a financial advantage by deception by sentence type and financial year

Type of imprisonment sentence	2015–16	2016–17	2017–18	2018–19	2019–20	Total
Imprisonment	5 (41.7%)	18 (72.0%)	11 (78.6%)	19 (79.2%)	14 (58.3%)	67 (67.7%)
Imprisonment and community correction order (combined)	1 (8.3%)	0 (0.0%)	0 (0.0%)	1 (4.2%)	3 (12.5%)	5 (5.1%)
<b>Total non-aggregate imprisonment</b>	<b>6 (50.0%)</b>	<b>18 (72.0%)</b>	<b>11 (78.6%)</b>	<b>20 (83.3%)</b>	<b>17 (70.8%)</b>	<b>72 (72.7%)</b>
Aggregate imprisonment	3 (25.0%)	6 (24.0%)	2 (14.3%)	1 (4.2%)	3 (12.5%)	15 (15.2%)
Aggregate imprisonment and community correction order (combined)	3 (25.0%)	1 (4.0%)	1 (7.1%)	3 (12.5%)	4 (16.7%)	12 (12.1%)
<b>Total aggregate imprisonment</b>	<b>6 (50.0%)</b>	<b>7 (28.0%)</b>	<b>3 (21.4%)</b>	<b>4 (16.7%)</b>	<b>7 (29.2%)</b>	<b>27 (27.3%)</b>
<b>Total people sentenced to imprisonment</b>	<b>12</b>	<b>25</b>	<b>14</b>	<b>24</b>	<b>24</b>	<b>99</b>

Of these, 72 people received a non-aggregate term of imprisonment and 27 people received an aggregate term.<sup>10</sup> There were 17 people who received a community correction order in addition to their term of imprisonment.

Figure 3 shows the length of imprisonment for the 72 people who received a non-aggregate term.<sup>11</sup> Imprisonment terms ranged from 4 months to 7 years, while the median length of imprisonment was 2 years (meaning that half of the imprisonment terms were below 2 years and half were above).

The most common range of imprisonment term lengths was 2 to less than 3 years (23 people).

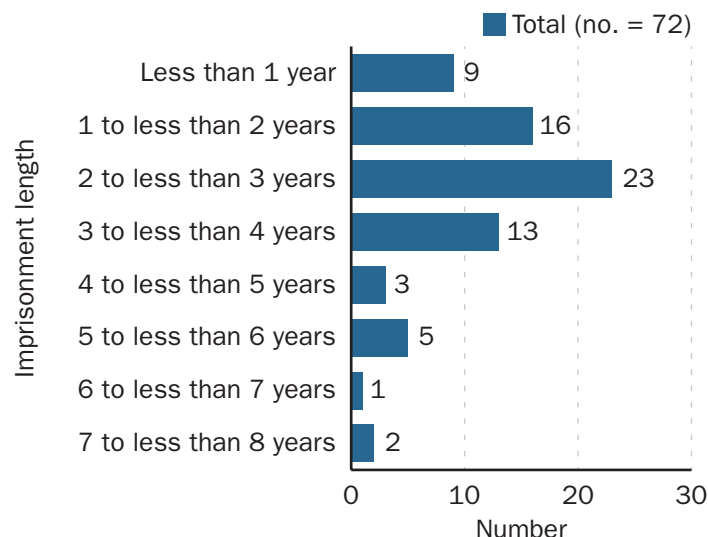
Figure 4 shows that the average length of imprisonment imposed on people sentenced for obtaining a financial advantage by deception decreased from 3 years and 2 months in 2015–16 to 2 years and 3 months in 2019–20. Over the five years, the average length of imprisonment for obtaining a financial advantage by deception was 2 years and 5 months.

### Other offences finalised at the same hearing

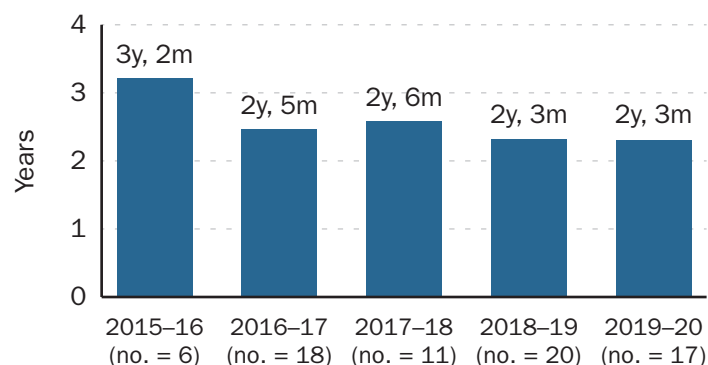
Sometimes people prosecuted for obtaining a financial advantage by deception face multiple charges, which are finalised at the same hearing. This section looks at the range of offences that offenders were sentenced for alongside the principal offence of obtaining a financial advantage by deception.

Figure 5 shows the number of people sentenced for the principal offence of obtaining a financial advantage by deception by the total number of sentenced offences per person. The number of sentenced offences per person ranged from 1 to 66, while the median was 4 offences. There were 26 people (16.6%) sentenced for the single offence of obtaining a financial advantage by deception. The average number of offences per person was 7.68.

**Figure 3:** The number of people sentenced to imprisonment for obtaining a financial advantage by deception by length of imprisonment term, 2015–16 to 2019–20



**Figure 4:** The average length of imprisonment imposed on people sentenced for obtaining a financial advantage by deception by financial year



**Figure 5:** The number of people sentenced for the principal offence of obtaining a financial advantage by deception by the number of sentenced offences per person, 2015–16 to 2019–20

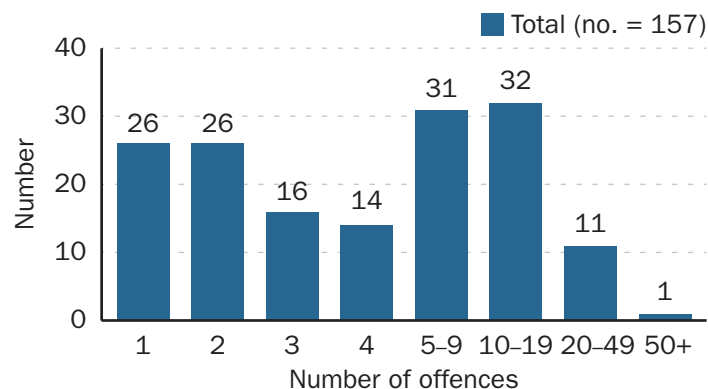


Table 3 shows the 10 most common offences, by number and percentage, for people sentenced for obtaining a financial advantage by deception. The last column sets out the average number of offences sentenced per person. For example, 30 of the total 157 people (19.1%) also received sentences for attempting to obtain a financial advantage by deception. On average, they were sentenced for 1.67 charges of attempting to obtain a financial advantage by deception.

**Table 3:** The number and percentage of people sentenced for the principal offence of obtaining a financial advantage by deception by the most common offences that were sentenced and the average number of those offences that were sentenced, 2015–16 to 2019–20

Offence	Number of cases	Percentage of cases	Average number of proven offences per case
1. Obtain financial advantage by deception	157	100.0%	5.00
2. Attempt to obtain a financial advantage by deception	30	19.1%	1.67
3. Theft	26	16.6%	6.65
4. Obtain property by deception	21	13.4%	2.76
5. Make a false document to prejudice of other	8	5.1%	2.75
6. Possess a drug of dependence	8	5.1%	1.38
7. Use a false document to prejudice of other	6	3.8%	2.50
8. Deal with suspected proceeds of crime	3	1.9%	5.33
9. Handling stolen goods	3	1.9%	1.33
10. Commit an indictable offence while on bail	3	1.9%	1.00
<b>Total</b>	<b>157</b>	<b>100.0%</b>	<b>7.68</b>

### Total effective imprisonment terms

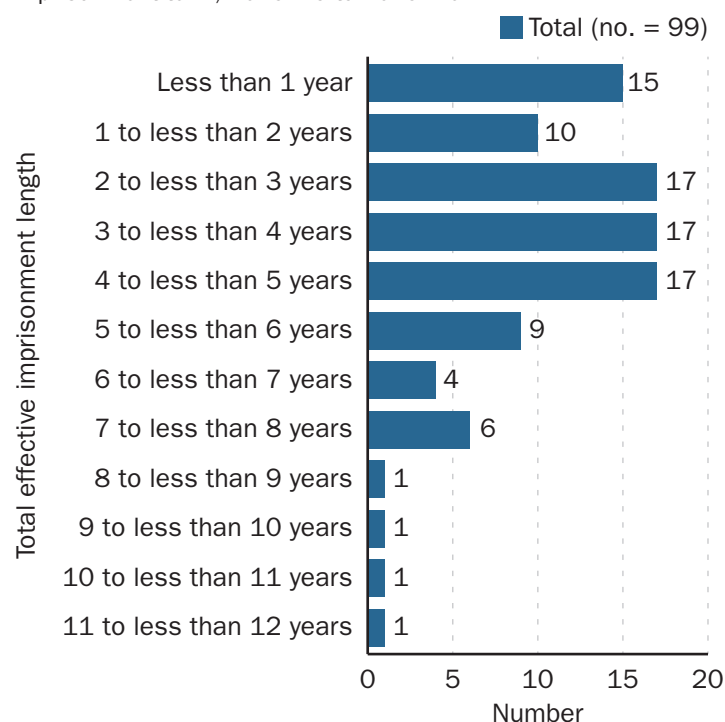
Figure 6 shows the number of people sentenced to imprisonment for obtaining a financial advantage by deception by the length of their total effective sentence. Total effective sentences ranged from 5 months to 11 years, while the median total effective imprisonment term was 3 years (meaning that half of the total effective imprisonment terms were below 3 years and half were above).

The most common ranges for total effective imprisonment terms were: 2 to less than 3 years, 3 to less than 4 years and 4 to less than 5 years (17 people for each of these ranges).

### Non-parole period

If a person is sentenced to a term of immediate imprisonment of less than 1 year, the court cannot impose a non-parole period. For terms between 1 year and less than 2 years, the court has the discretion to fix a non-parole period. For terms of imprisonment of 2 years or more, the court must impose a non-parole period in most circumstances. If the court fixes a non-parole period, the person must serve that period before becoming eligible for parole. If the court does not set a non-parole period, the person must serve the entirety of their imprisonment term in custody.

**Figure 6:** The number of people sentenced to imprisonment for obtaining a financial advantage by deception by length of total effective imprisonment term, 2015–16 to 2019–20



Of the 99 people who were sentenced to imprisonment for obtaining a financial advantage by deception, 15 were not eligible to have a non-parole period imposed because their total effective sentence was less than one year. Of the 84 people who were eligible to have a non-parole period fixed, 79 were given a non-parole period (94.0%).

Figure 7 shows the number of people sentenced to imprisonment for obtaining a financial advantage by deception, by length of non-parole period. Non-parole periods ranged from 6 months to 7 years, while the median non-parole period was 2 years and 6 months (meaning that half of the non-parole periods were below 2 years and 6 months and half were above). There were 20 people sentenced to imprisonment for obtaining a financial advantage by deception who did not have a non-parole period imposed.

The most common range for non-parole periods was 2 to less than 3 years (27 people).

Note that it was not possible to determine the length of the non-parole period for one person.<sup>12</sup>

### Total effective sentences of imprisonment and non-parole periods

Figure 8 represents the 79 people who were sentenced to imprisonment for obtaining a financial advantage by deception and for whom the non-parole period could be determined. Figure 8 compares the average length of total effective sentences with the average length of non-parole periods for these people by financial year.<sup>13</sup>

From 2015–16 to 2019–20, the average total effective sentence ranged from 3 years and 7 months in 2017–18 to 5 years and 4 months in 2015–16. Over the same period, the average non-parole period ranged from 2 years and 2 months in 2017–18 to 3 years and 4 months in 2015–16.

Further data on total effective sentences of imprisonment and corresponding non-parole periods for obtaining a financial advantage by deception is available on [SACStat](#).

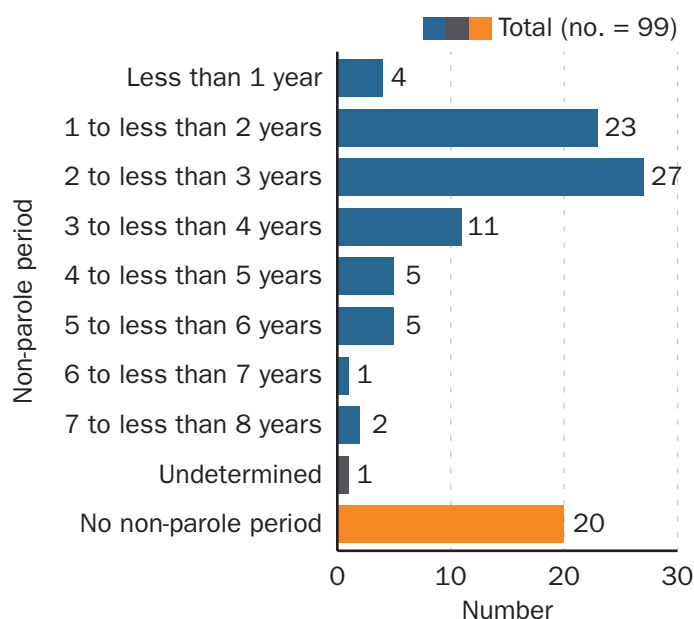
## Summary

From 2015–16 to 2019–20, 157 people were sentenced for obtaining a financial advantage by deception in the higher courts. Of these people, 99 (63.1%) were given a principal sentence of imprisonment.

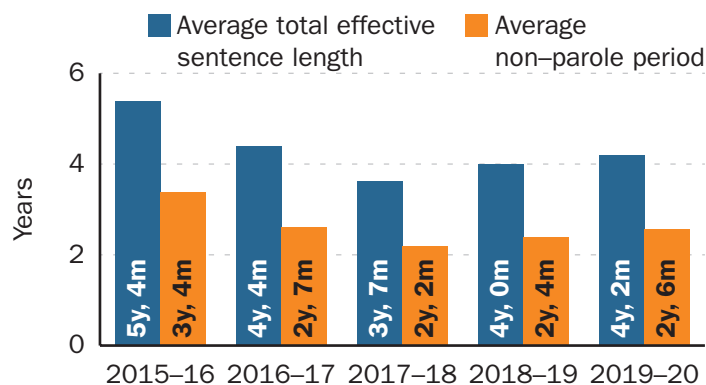
The number and range of offences for which people with a principal offence of obtaining a financial advantage by deception were sentenced help explain why imprisonment sentence lengths were longer for the total effective sentence than for the principal sentence. The median total effective imprisonment length was 3 years, while the median principal imprisonment length was 2 years. On average, people sentenced for obtaining a financial advantage by deception were found guilty of 7.68 offences each, with a maximum of 66 offences.

Total effective imprisonment lengths ranged from 5 months to 11 years, and non-parole periods ranged from 6 months to 7 years.

**Figure 7:** The number of people sentenced to imprisonment for obtaining a financial advantage by deception by length of non-parole period, 2015–16 to 2019–20



**Figure 8:** The average total effective sentence length and the average non-parole period for people sentenced to imprisonment with a non-parole period for obtaining a financial advantage by deception by financial year





## Endnotes

1. This Sentencing Snapshot is an update of Sentencing Snapshot no. 229, which describes sentencing trends for obtaining a financial advantage by deception between 2013–14 and 2017–18.
2. Data on first-instance sentence outcomes presented in this Snapshot were obtained from the Strategic Analysis and Review Team at Court Services Victoria. Data on appeal outcomes was collected by the Sentencing Advisory Council from the **Australasian Legal Information Institute** and was also provided by the Victorian Court of Appeal. The Sentencing Advisory Council regularly undertakes extensive quality control measures for current and historical data. While every effort is made to ensure that the data analysed in this report is accurate, the data is subject to revision.
3. *Crimes Act 1958* (Vic) s 82. The value of a penalty unit changes each year and can be found in the **Victorian Government Gazette** and on the **Victorian legislation website**.
4. *Criminal Procedure Act 2009* (Vic) s 28, sch 2 cl 4.10.
5. If a person is sentenced for a case with a single charge, the offence for that charge is the principal offence. If a person is sentenced for more than one charge in a single case, the principal offence is the offence for the charge that attracted the most serious sentence according to the sentencing hierarchy.
6. For the principal offence of obtaining a financial advantage by deception, custodial sentences included imprisonment and partially suspended sentences.
7. For example, if the principal offence has a sentence that includes imprisonment combined with a community correction order, imprisonment is the most serious sentence type.
8. Suspended sentences have been abolished in the higher courts for all offences committed on or after 1 September 2013 and in the Magistrates' Court for all offences committed on or after 1 September 2014.
9. For example, initially the maximum term of imprisonment that could be combined with a community correction order was set at 3 months, but it was increased to 2 years in September 2014 and reduced to 1 year in March 2017.
10. A court may impose an aggregate sentence of imprisonment on multiple charges sentenced at the same time. These sentences are a single term of imprisonment in which the parts of the term attributable to the individual charges are not specified. A case may include a combination of aggregate and non-aggregate sentences.
11. Data presented in this section does not include imprisonment lengths for people who received an aggregate sentence of imprisonment. Figures 3 and 4 only report on non-aggregate sentences of imprisonment for the principal offence of obtaining a financial advantage by deception.
12. One person was given a non-parole period that related to more than one case (for example, they may have already been serving a prison sentence at the time). It was not possible to separately determine the non-parole periods that related to each individual case.
13. Figure 8 only includes cases where the total effective sentence is an imprisonment term and a discernible non-parole period is applied. This means cases with a combined imprisonment and community correction order (which do not receive a non-parole period) are excluded from Figure 8.

## SACStat – Higher Courts Obtaining a financial advantage by deception

<http://www.sentencingcouncil.vic.gov.au/sacstat/home.html>

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