

# Sentencing Snapshot

Sentencing trends  
in the higher courts  
of Victoria  
2005–06 to 2009–10

March 2011  
No. 107

## 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 and details the age and gender<sup>2</sup> of people sentenced for this offence in the County and Supreme Courts of Victoria between 2005–06 and 2009–10.<sup>3</sup>

A person who, by any deception, dishonestly obtains any financial advantage for him- or herself or for another person is guilty of obtaining a financial advantage by deception.<sup>4</sup>

Obtaining a financial advantage by deception is an indictable offence that carries a maximum penalty of 10 years' imprisonment<sup>5</sup> and/or a fine of 1200 penalty units.<sup>6</sup> Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court. Obtaining a financial advantage by deception can also be tried summarily by the Magistrates' Court if the property involved meets certain criteria,<sup>7</sup> the Magistrates' Court considers it appropriate and the defendant consents.<sup>8</sup>

Obtaining a financial advantage by deception was the principal offence in 2.1% of cases sentenced in the higher courts between 2005–06 and 2009–10.

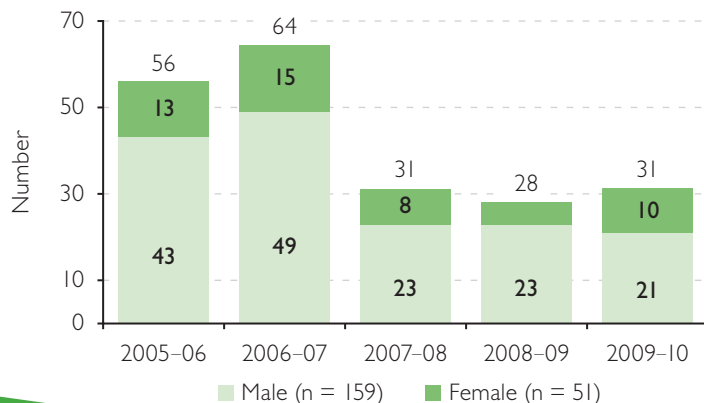
As with previous publications in this series, this report presents a snapshot of first instance sentences in the higher courts of Victoria. The Council is now collecting data on all sentence appeals. A section on appeals has been included immediately before the Summary section of this report. Information on sentences that have changed on appeal is also noted in other sections of the report. Unless otherwise noted, the data represent sentences imposed at first instance.

### People sentenced

Figure 1 shows the number of people sentenced for the principal offence of obtaining a financial advantage by deception for the period 2005–06 to 2009–10. As shown, 210 people were sentenced for obtaining a financial advantage by deception over the five-year period. There were 31 people sentenced for this offence in 2009–10, up by 3 people from the previous year.<sup>9</sup>

Over the five years depicted, the majority of those sentenced were men (75.7% or 159 of the 210 people), including 21 of the 31 people sentenced in 2009–10.

**Figure 1:** The number of people sentenced for obtaining a financial advantage by deception by gender, 2005–06 to 2009–10



### Sentence types and trends

Figure 2 shows the total number of people sentenced for obtaining a financial advantage by deception and the number who received an immediate custodial sentence. An immediate custodial sentence is one that involves at least some element of immediate (as opposed to wholly suspended) imprisonment or detention.<sup>10</sup> Over the five-year period, 47% of people were given an immediate custodial sentence. This peaked at 55% (17 of 31) in 2009–10 after a low of 42% (13 of 31) in 2007–08.

**Figure 2:** The number of people sentenced for obtaining a financial advantage by deception and the number who received an immediate custodial sentence, 2005–06 to 2009–10

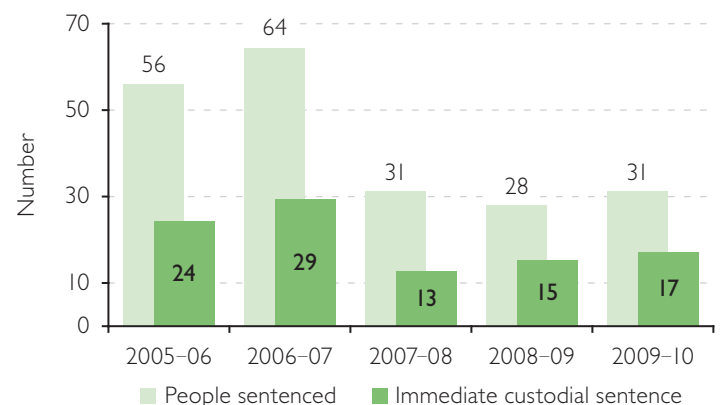


Table 1 shows the number of people sentenced for obtaining a financial advantage by deception from 2005–06 to 2009–10 by the types of sentences imposed.

Over the five-year period, around one-third of the people sentenced for obtaining a financial advantage by deception received a wholly suspended<sup>11</sup> sentence of imprisonment (32% or 68 of 210 people), while 31% received a period of imprisonment, 9% received a partially suspended sentence of imprisonment and 8% received a community-based order.

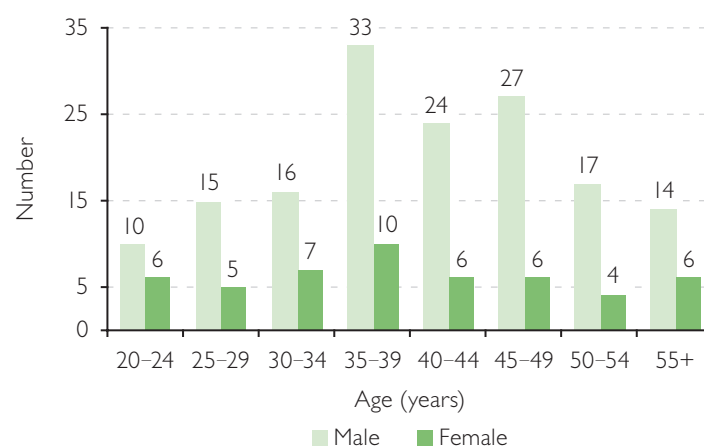
The number of wholly suspended sentences being given to people was lowest in 2009–10 (10 people) and highest in 2005–06 (19 people). The percentage of wholly suspended sentences was lowest in 2006–07 (15 of 64 people, or 23%) and highest in 2008–09 (12 of 28 people, or 43%).

The number of people being given a sentence of imprisonment ranged from 11 people in each of the years between 2007–08 and 2009–10, to 21 people in 2005–06. The percentage of people being given a sentence of imprisonment was lowest during 2006–07 (12 of 64 people, or 19%) and highest during 2008–09 (11 of 28 people, or 39%).

## Age and gender of people sentenced

Figure 3 shows the gender of people sentenced for obtaining a financial advantage by deception, grouped by their age,<sup>12</sup> between 2005–06 and 2009–10. The average age of people sentenced for obtaining a financial advantage by deception was 40 years and 4 months. Men sentenced over this period were older than women (an average age of 40 years and 7 months for men compared to 39 years and 7 months for women). There were no juveniles sentenced over this period.<sup>13</sup>

**Figure 3:** The number of people sentenced for obtaining a financial advantage by deception by gender and age, 2005–06 to 2009–10



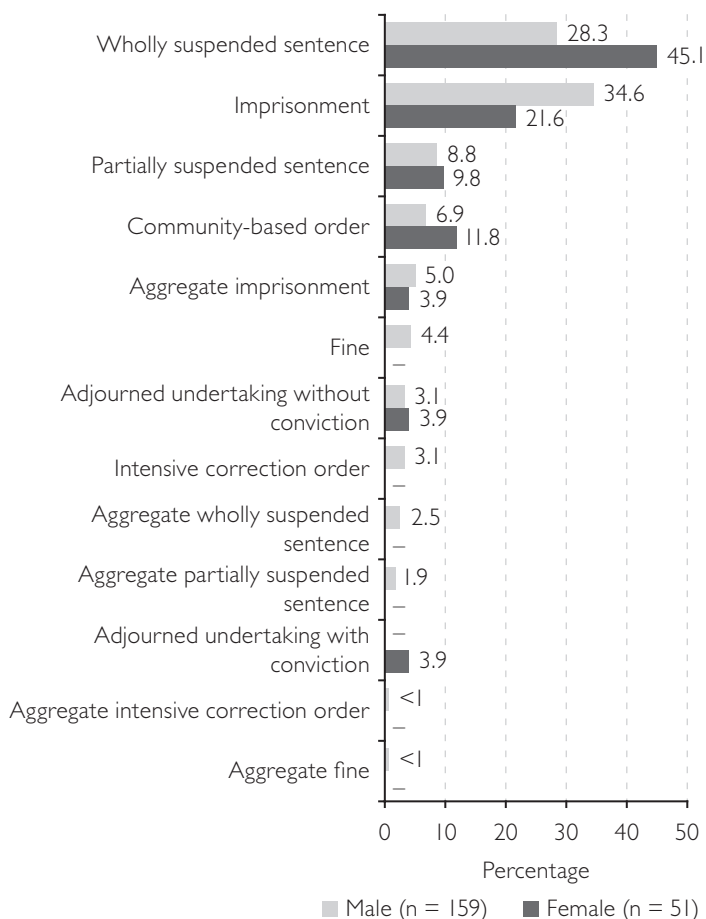
**Table 1:** The number and percentage of people sentenced for obtaining a financial advantage by deception by sentence type, 2005–06 to 2009–10

Sentence type	2005–06	2006–07	2007–08	2008–09	2009–10
Wholly suspended sentence	19 (34%)	15 (23%)	12 (39%)	12 (43%)	10 (32%)
Imprisonment	21 (38%)	12 (19%)	11 (35%)	11 (39%)	11 (35%)
Partially suspended sentence	3 (5%)	6 (9%)	2 (6%)	4 (14%)	4 (13%)
Community-based order	4 (7%)	9 (14%)	2 (6%)	0 (–)	2 (6%)
Aggregate imprisonment	0 (–)	8 (13%)	0 (–)	0 (–)	2 (6%)
Fine	3 (5%)	1 (2%)	1 (3%)	1 (4%)	1 (3%)
Adjourned undertaking without conviction	5 (9%)	1 (2%)	1 (3%)	0 (–)	0 (–)
Intensive correction order	0 (–)	4 (6%)	1 (3%)	0 (–)	0 (–)
Aggregate wholly suspended sentence	0 (–)	3 (5%)	1 (3%)	0 (–)	0 (–)
Aggregate partially suspended sentence	0 (–)	3 (5%)	0 (–)	0 (–)	0 (–)
Adjourned undertaking with conviction	1 (2%)	1 (2%)	0 (–)	0 (–)	0 (–)
Aggregate intensive correction order	0 (–)	0 (–)	0 (–)	0 (–)	1 (3%)
Aggregate fine	0 (–)	1 (2%)	0 (–)	0 (–)	0 (–)
<b>People sentenced</b>	<b>56</b>	<b>64</b>	<b>31</b>	<b>28</b>	<b>31</b>

### Sentence types by gender

Figure 4 and Table 2 show the types of sentences imposed for obtaining a financial advantage by deception grouped by gender. As shown, a higher percentage of men received a period of imprisonment (34.6% compared to 21.6% of women), a fine (4.4% compared to no women) and an intensive correction order (3.1% compared to no women). Conversely, a higher percentage of women received a wholly suspended sentence of imprisonment (45.1% compared to 28.3% of men), a community-based order (11.8% compared to 6.9%) and an adjourned undertaking with conviction (3.9% compared to no men). A similar percentage of men and women received a partially suspended sentence (8.8% of men compared to 9.8% of women).

**Figure 4:** The percentage of people sentenced for obtaining a financial advantage by deception by sentence type and gender, 2005–06 to 2009–10



**Table 2:** The number and percentage of people sentenced for obtaining a financial advantage by deception by gender, 2005–06 to 2009–10

Sentence type	Male	Female	Total
Wholly suspended sentence	45 (28%)	23 (45%)	68 (32%)
Imprisonment	55 (35%)	11 (22%)	66 (31%)
Partially suspended sentence	14 (9%)	5 (10%)	19 (9%)
Community-based order	11 (7%)	6 (12%)	17 (8%)
Aggregate imprisonment	8 (5%)	2 (4%)	10 (5%)
Fine	7 (4%)	0 (—)	7 (3%)
Adjourned undertaking without conviction	5 (3%)	2 (4%)	7 (3%)
Intensive correction order	5 (3%)	0 (—)	5 (2%)
Aggregate wholly suspended sentence	4 (3%)	0 (—)	4 (2%)
Aggregate partially suspended sentence	3 (2%)	0 (—)	3 (1%)
Adjourned undertaking with conviction	0 (—)	2 (4%)	2 (<1%)
Aggregate intensive correction order	1 (<1%)	0 (—)	1 (<1%)
Aggregate fine	1 (<1%)	0 (—)	1 (<1%)
<b>People sentenced</b>	<b>159</b>	<b>51</b>	<b>210</b>

## Sentence types by age

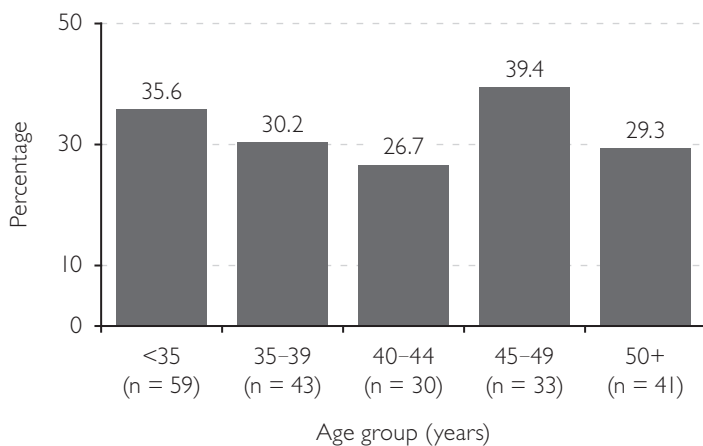
As shown in Table 2, the four most common sentence types were wholly suspended sentences of imprisonment, imprisonment, partially suspended sentences of imprisonment and community-based orders. The following analysis examines these sentence types by the offender's age group.

### Wholly suspended sentences of imprisonment

Wholly suspended sentences of imprisonment were most likely to be given to people aged 45–49 years (39% or 13 of the 33 people in this age group).

Conversely, wholly suspended sentences of imprisonment were least common for those aged 40–44 years (27% or 8 of the 30 people in this age group).

**Figure 5:** The percentage of people who received a wholly suspended sentence of imprisonment for obtaining a financial advantage by deception by age group, 2005–06 to 2009–10

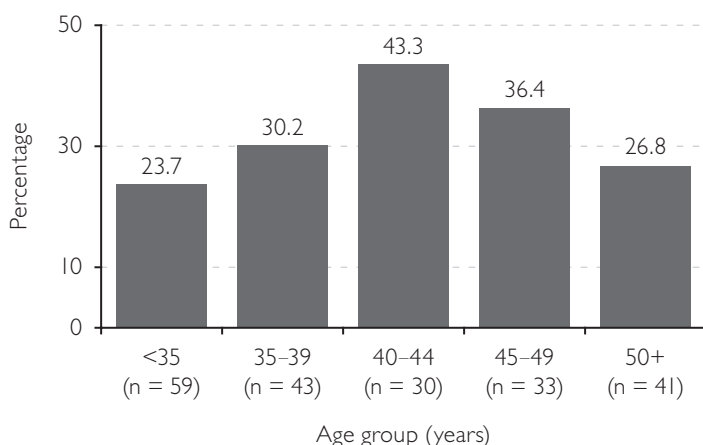


### Imprisonment

Sentences of imprisonment were most likely to be given to people aged 40–44 years (43% or 13 of the 30 people in this age group).

Conversely, sentences of imprisonment were least common for those aged under 35 years (24% or 14 of the 59 people in this age group).

**Figure 6:** The percentage of people who received a period of imprisonment for obtaining a financial advantage by deception by age group, 2005–06 to 2009–10

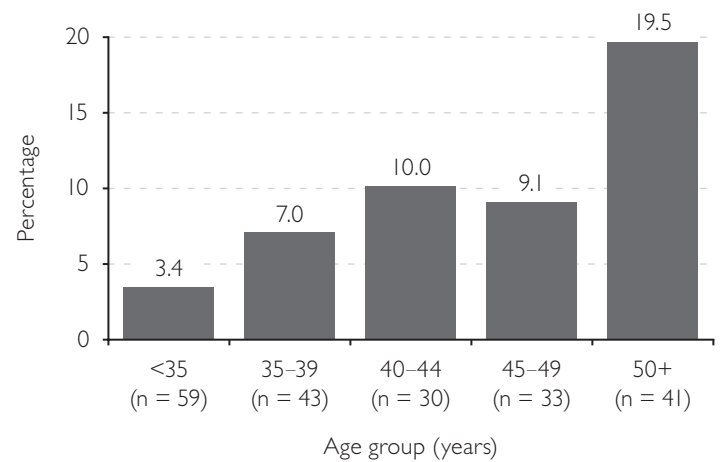


### Partially suspended sentences of imprisonment

Partially suspended sentences of imprisonment were most likely to be given to people aged 50 years and older (20% or 8 of the 41 people in this age group).

Conversely, partially suspended sentences of imprisonment were least common for those aged under 35 years (3% or 2 of the 59 people in this age group).

**Figure 7:** The percentage of people who received a partially suspended sentence of imprisonment for obtaining a financial advantage by deception by age group, 2005–06 to 2009–10

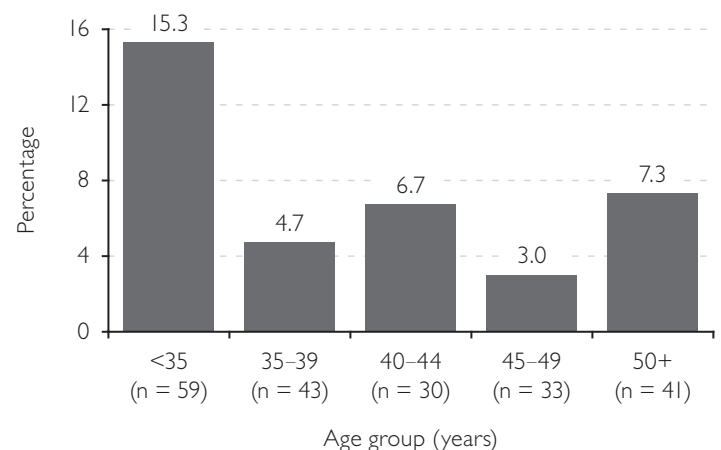


### Community-based orders

Community-based orders were most likely to be given to people aged under 35 years (15% or 9 of the 59 people in this age group).

Conversely, community-based orders were least common for those aged 45–49 years (3% or 1 of the 33 people in this age group).

**Figure 8:** The percentage of people who received a community-based order for obtaining a financial advantage by deception by age group, 2005–06 to 2009–10



### Principal and total effective sentences

There are two methods for describing sentence types and lengths – the principal sentence and the total effective sentence.

The *principal sentence* is the individual sentence imposed for a single charge. When imposing a sentence for multiple charges, the court imposes a *total effective sentence*. The total effective sentence aggregates the principal sentence handed down for each charge and takes into account whether sentences are ordered by the court to be served concurrently (at the same time) or cumulatively.

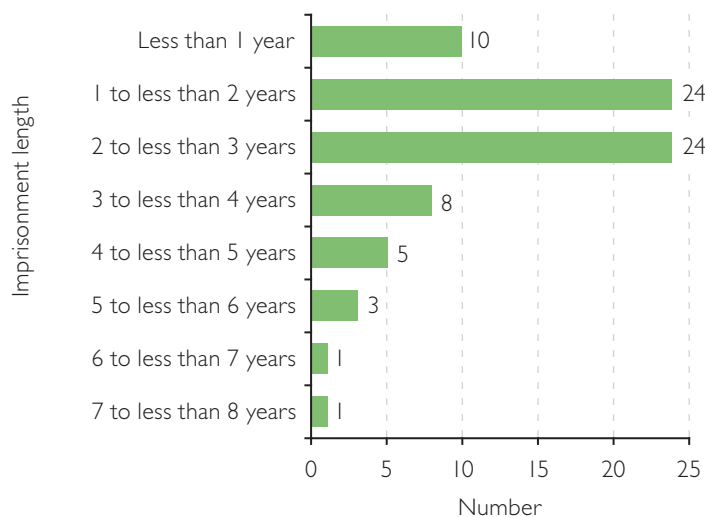
In many cases, the total effective sentence imposed on a person will be longer than individual principal sentences. Principal sentences for obtaining a financial advantage by deception must be considered in this broader context. The following sections analyse the use of imprisonment for obtaining a financial advantage by deception from 2005–06 to 2009–10.

#### Principal sentence of imprisonment

Figure 9 shows the number of people sentenced to imprisonment for obtaining a financial advantage by deception between 2005–06 and 2009–10 by the length of the imprisonment term. Imprisonment terms ranged from 2 months to 7 years, while the median length of imprisonment was 2 years (meaning that half of the imprisonment terms were shorter than 2 years and half were longer).

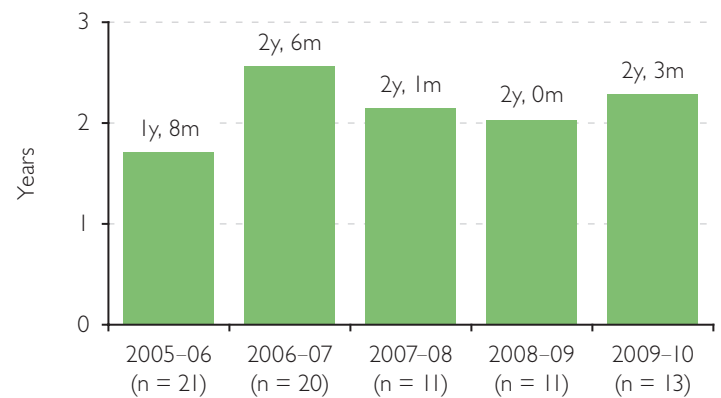
The most common lengths of imprisonment imposed were 1 and 2 years (24 people each).

**Figure 9:** The number of people sentenced to imprisonment for obtaining a financial advantage by deception by length of imprisonment term, 2005–06 to 2009–10



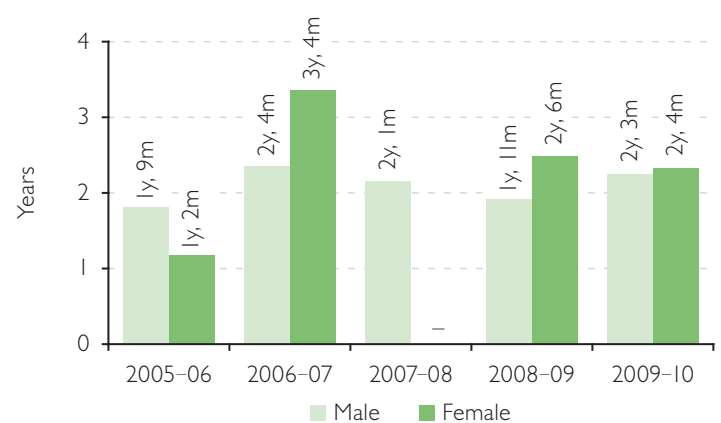
As shown in Figure 10, the average length of imprisonment term imposed on people sentenced for obtaining a financial advantage by deception ranged from 1 year and 8 months in 2005–06 to 2 years and 6 months in 2006–07.

**Figure 10:** The average length of imprisonment term imposed on people sentenced for obtaining a financial advantage by deception, 2005–06 to 2009–10



From 2005–06 to 2009–10, the majority of those people who received a term of imprisonment for obtaining a financial advantage by deception were men (63 people or 82.9%). Over the five-year period, men received a shorter average term of imprisonment (2 years and 1 month compared to 2 years and 3 months for women). Figure 11 shows that imprisonment lengths for men ranged from 1 year and 9 months in 2005–06 to 2 years and 4 months in 2006–07. Imprisonment lengths for women ranged from 1 year and 2 months in 2005–06 to 3 years and 4 months in 2006–07.

**Figure 11:** The average period of imprisonment imposed on people sentenced for obtaining a financial advantage by deception by gender, 2005–06 to 2009–10



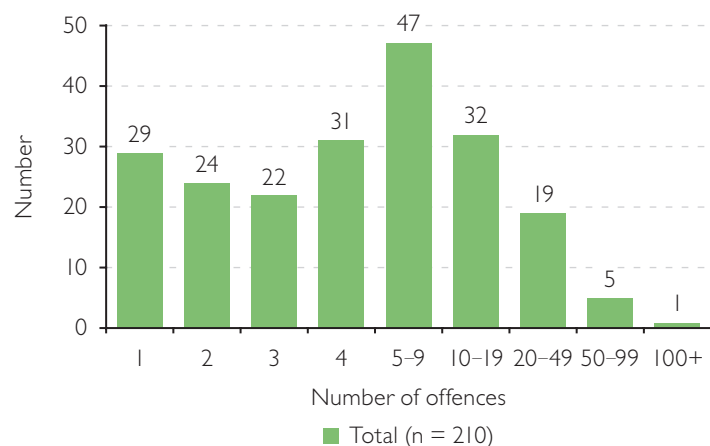
#### Other offences finalised at the same hearing

Often 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 for which offenders have been sentenced at the same time as being sentenced for the principal offence of obtaining a financial advantage by deception.

Figure 12 shows the number of people sentenced for the principal offence of obtaining a financial advantage by deception by the

total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 126, while the median was 4 offences. There were 29 people (13.8%) sentenced for the single offence of obtaining a financial advantage by deception. The average number of offences per person sentenced for obtaining a financial advantage by deception was 9.41.

**Figure 12:** The number of people sentenced for the principal offence of obtaining a financial advantage by deception by the number of sentenced offences per person, 2005–06 to 2009–10



While Figure 12 presents the number of sentenced offences for those sentenced for obtaining a financial advantage by deception, Table 3 shows what the accompanying offences were. It shows the number and percentage of people sentenced for the 10 most common offences. The last column sets out the average number of offences sentenced per person. For example, 49 of the total 210 people (23.3%) also received sentences for attempting to obtain a financial advantage by deception. On average, they were sentenced for 3.43 counts 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, 2005–06 to 2009–10

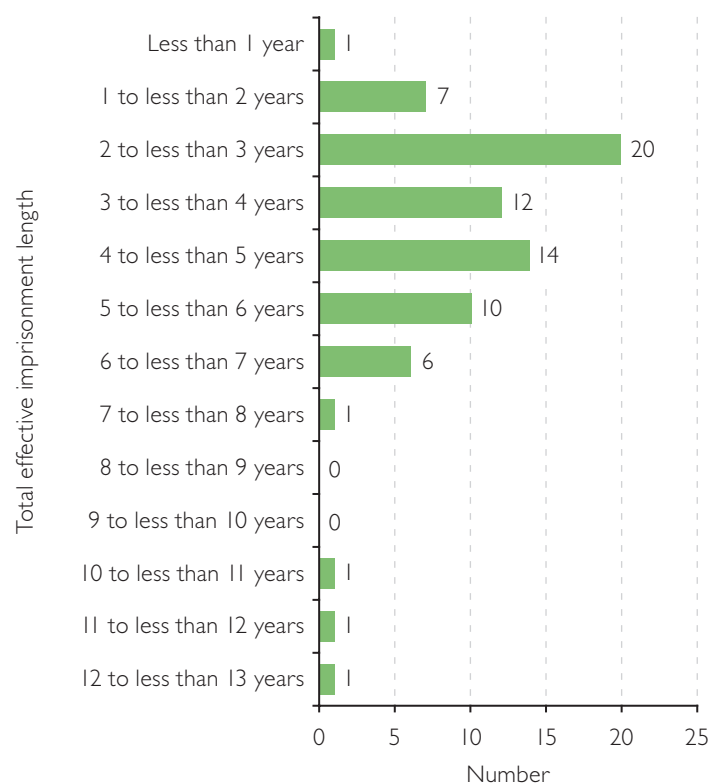
Offence	No.	%	Avg.
1 Obtaining a financial advantage by deception	210	100.0	5.24
2 Attempt to obtain a financial advantage by deception	49	23.3	3.43
3 Obtaining property by deception	40	19.0	7.43
4 Theft	29	13.8	4.83
5 Make false document to prejudice of other	23	11.0	1.61
6 Use false document to prejudice of other	15	7.1	1.73
7 Handling stolen goods	10	4.8	4.20
8 Falsify any document for any accounting purpose	10	4.8	2.50
9 Attempt to obtain property by deception	8	3.8	5.50
10 Possess a drug of dependence	6	2.9	2.67
<b>People sentenced</b>	<b>210</b>	<b>100.0</b>	<b>9.41</b>

## Total effective sentence of imprisonment

There were 74 people given a total effective sentence of imprisonment.<sup>14</sup> Figure 13 shows the number of people sentenced to imprisonment for obtaining a financial advantage by deception between 2005–06 and 2009–10 by length of total effective sentence. The lengths of total effective sentences ranged from 7 months to 12 years, while the median total effective length of imprisonment was 3 years and 6 months (meaning that half of the total effective sentence lengths were below 3 years and 6 months and half were above). Adjusted for appeals, the median total effective imprisonment length was 3 years.

The most common total effective imprisonment length was 2 years (20 people).

**Figure 13:** The number of people sentenced to imprisonment for obtaining a financial advantage by deception by total effective length of imprisonment term, 2005–06 to 2009–10



### Non-parole period

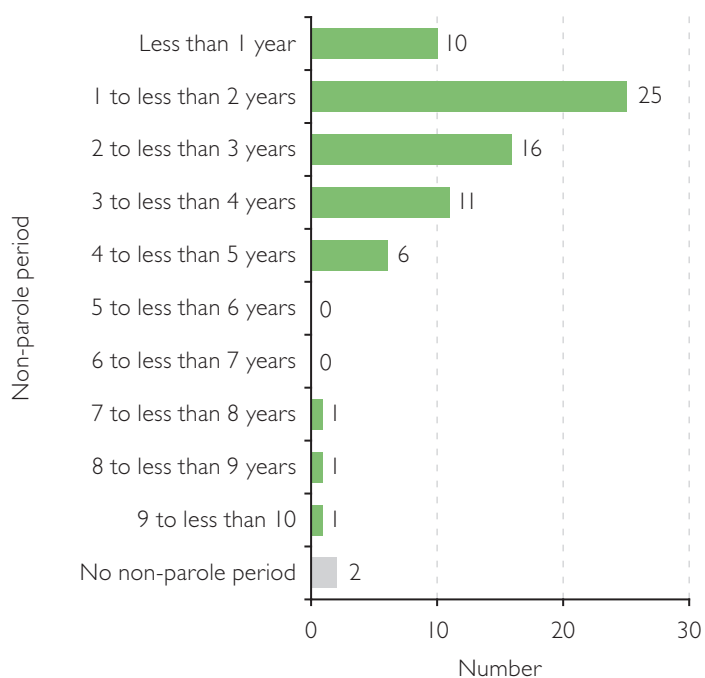
When a person is sentenced to a term of immediate imprisonment of one year or more, the court has the discretion to fix a non-parole period. Where a non-parole period is fixed, the person must serve that period before becoming eligible for parole. Where no non-parole period is set by the court, the person must serve the entirety of the imprisonment term.

Under section 11(4) of the *Sentencing Act 1991* (Vic), if a court sentences an offender to imprisonment in respect of more than one offence, the non-parole period set by the court must be in respect of the total effective sentence of imprisonment that the offender is liable to serve under all the sentences imposed. In many cases, the non-parole period will be longer than the individual principal sentence for obtaining a financial advantage by deception. Sentences and non-parole periods must be considered in this broader context.

Of the 74 people who were sentenced to imprisonment for obtaining a financial advantage by deception, 73 were eligible to have a non-parole period fixed.<sup>15</sup> Of these people, 71 were given a non-parole period (97%).<sup>16</sup> Figure 14 shows the number of people sentenced to imprisonment for obtaining a financial advantage by deception between 2005–06 and 2009–10 by length of non-parole period. Non-parole periods ranged from 1 month and 14 days to 9 years, while the median length of the non-parole period was 2 years (meaning that half of the non-parole periods were below 2 years and half were above). Adjusted for appeals, the median non-parole period was 1 year and 10 months.

The most common non-parole period imposed was 1 year (25 people).

**Figure 14:** The number of people sentenced to imprisonment for obtaining a financial advantage by deception by length of non-parole period, 2005–06 to 2009–10

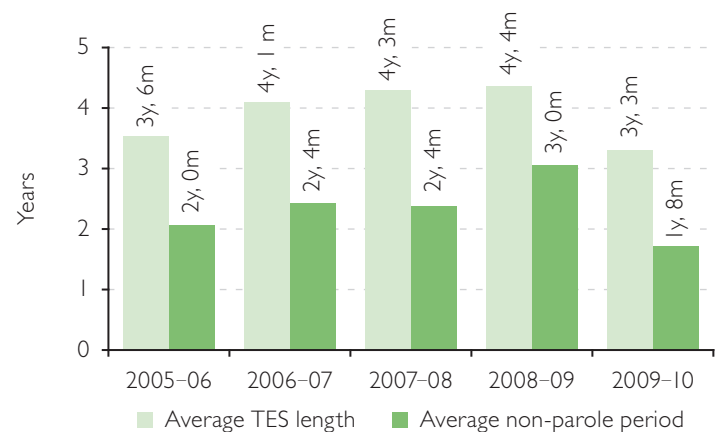


### Total effective sentences of imprisonment and non-parole periods

Figure 15 presents the average length of total effective sentences of imprisonment compared to the average length of non-parole periods for all people from 2005–06 to 2009–10.

From 2005–06 to 2009–10, the average length of total effective sentences for all people ranged from 3 years and 3 months in 2009–10 to 4 years and 4 months in 2008–09. Over the same period, the average length of non-parole periods ranged from 1 year and 8 months in 2009–10 to 3 years in 2008–09.

**Figure 15:** The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for obtaining a financial advantage by deception, 2005–06 to 2009–10

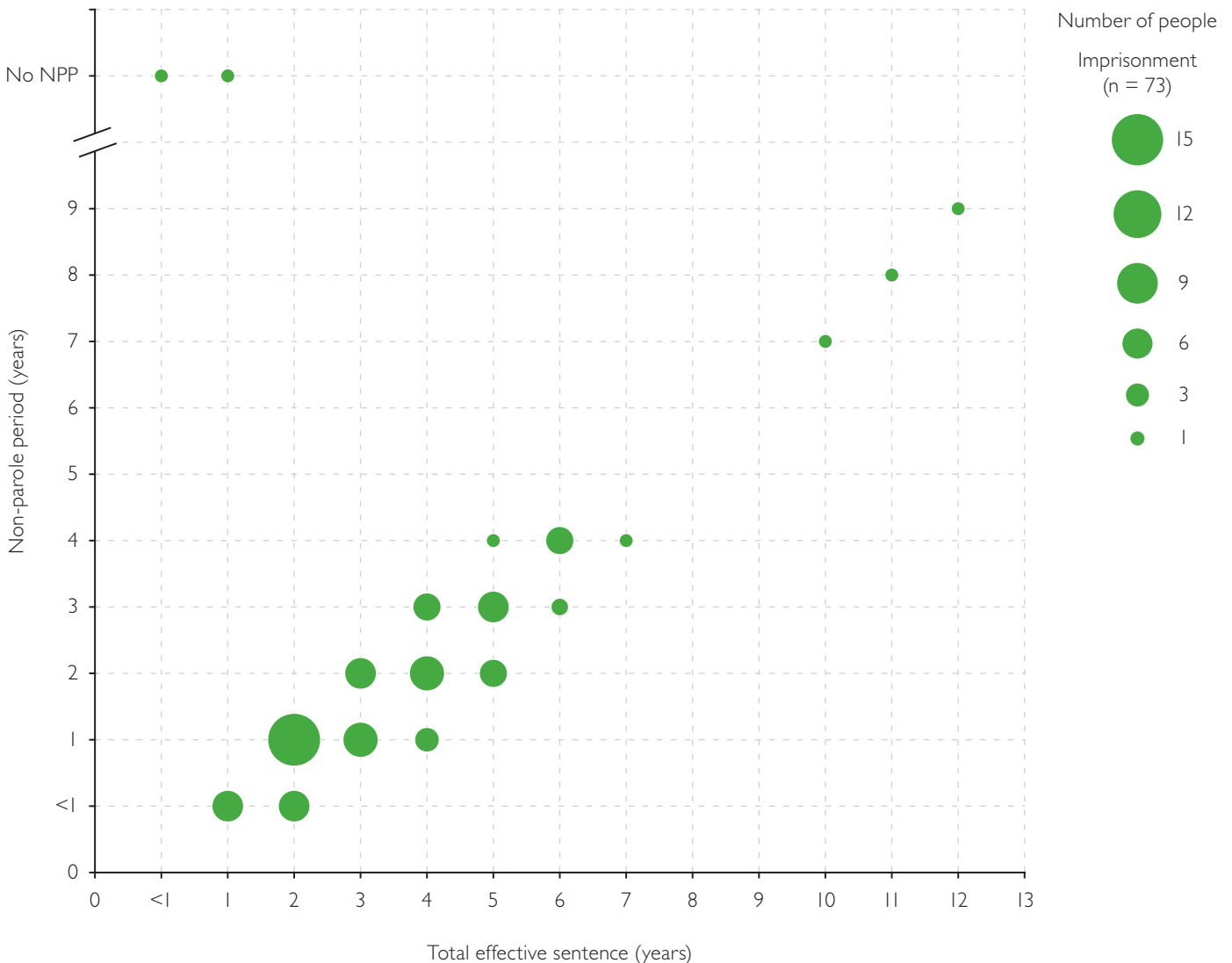


### Total effective sentence of imprisonment by non-parole period

While Figures 13 and 14 present the lengths of the total effective sentences and non-parole periods separately, Figure 16 combines the two methods of describing sentence lengths in the one diagram. It shows the total effective sentence and non-parole period for obtaining a financial advantage by deception for each individual person.

The centre of each 'bubble' on the chart represents a combination of imprisonment length and non-parole period, while the size of the 'bubble' reflects the number of people who received that particular combination.<sup>17</sup> As shown, the most common combination of imprisonment length and non-parole period imposed was 2 years with a non-parole period of 1 year (15 people – as represented by the largest 'bubble' on the chart). The length of imprisonment ranged from 7 months with no non-parole period to 12 years with a non-parole period of 9 years.

**Figure 16:** The number of people sentenced to imprisonment for obtaining a financial advantage by deception by the total effective sentence and the non-parole period imposed, 2005–06 to 2009–10



Note: No NPP refers to no non-parole period.



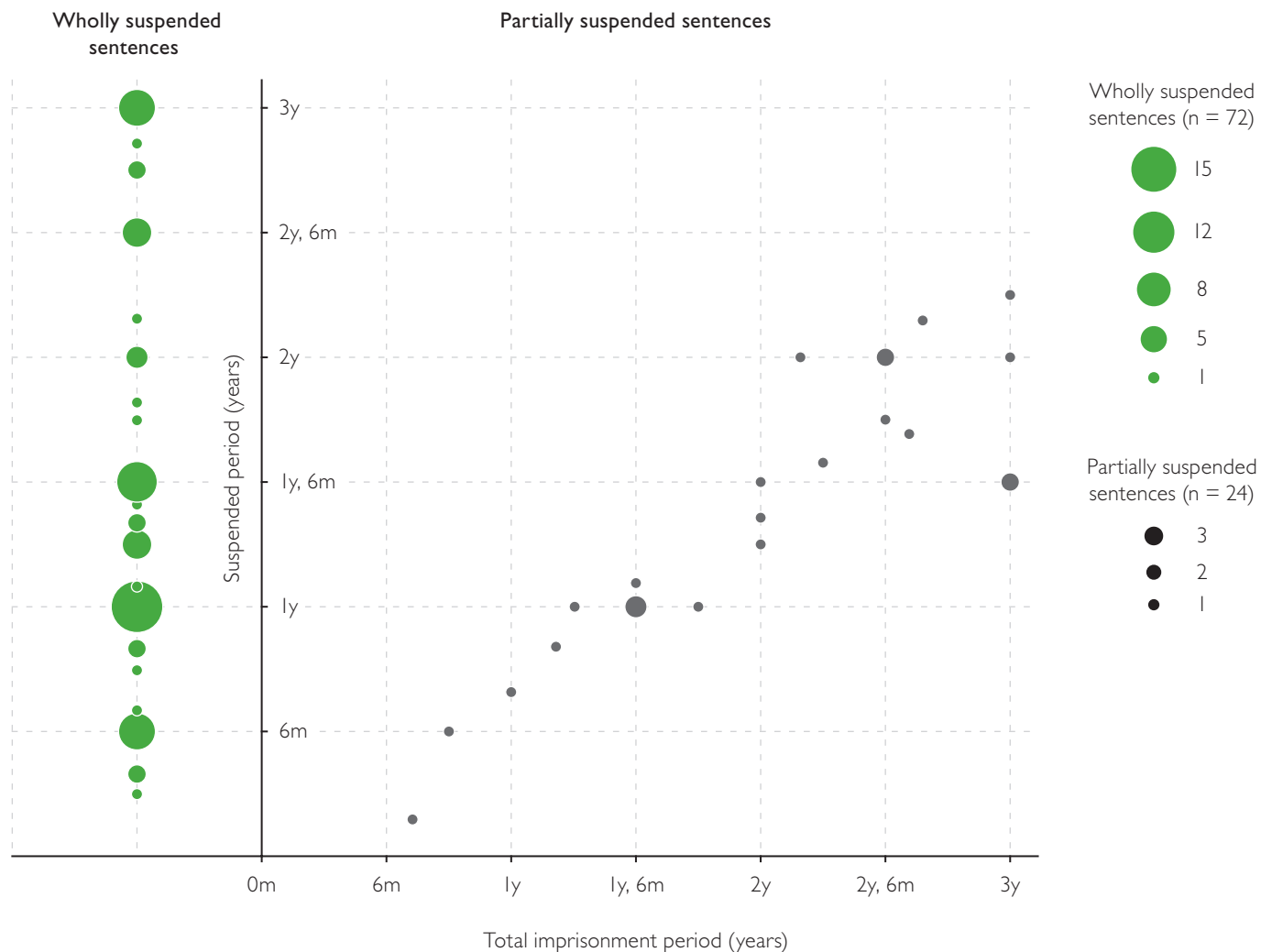
### Suspended sentences of imprisonment

There were 96 people given a suspended sentence of imprisonment as their total effective sentence. Of these, 72 people had their prison sentence wholly suspended and 24 received a partially suspended sentence of imprisonment. Figure 17 shows the number of people with a suspended sentence of imprisonment as their total effective sentence by the suspended sentence type and length of sentence. The green 'bubbles' to the left of the vertical axis show the lengths of the wholly suspended sentences, while the grey 'bubbles' to the right of the vertical axis show the combination of total imprisonment length and the suspended period for those sentenced to a partially suspended sentence. The size of the bubble reflects the number of people who received either the wholly or partially suspended prison term.

Wholly suspended sentence lengths ranged from 3 months to 3 years. The most common wholly suspended sentence length was one year (15 people – as represented by the largest green 'bubble' on the chart).

Partially suspended sentences ranged from 6 months with 1 month and 17 days suspended, to 3 years with 2 years and 3 months suspended. The most common partially suspended sentence combination was 1 year and 6 months with 1 year suspended (3 people – as represented by the largest grey 'bubble' on the chart).

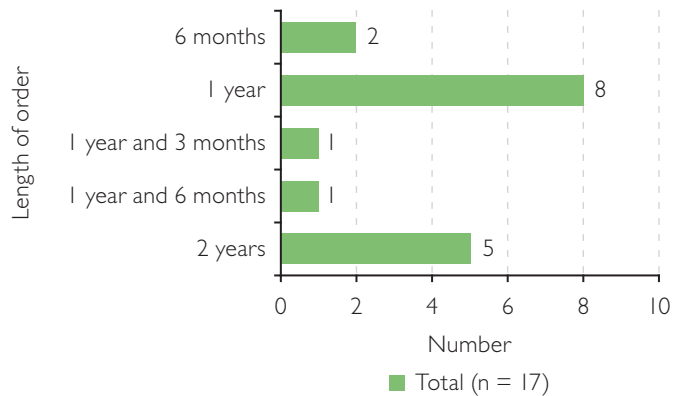
Figure 17: The number of people given a wholly or partially suspended sentence of imprisonment for obtaining a financial advantage by deception by sentence type and length, 2005–06 to 2009–10



## Community-based orders

There were 17 people given a community-based order as their total effective sentence. The lengths of community-based orders for obtaining a financial advantage by deception ranged from 6 months to 2 years, while the most common length was 1 year (8 people).

**Figure 18:** The number of people sentenced to a community-based order for obtaining a financial advantage by deception by length of order imposed, 2005–06 to 2009–10



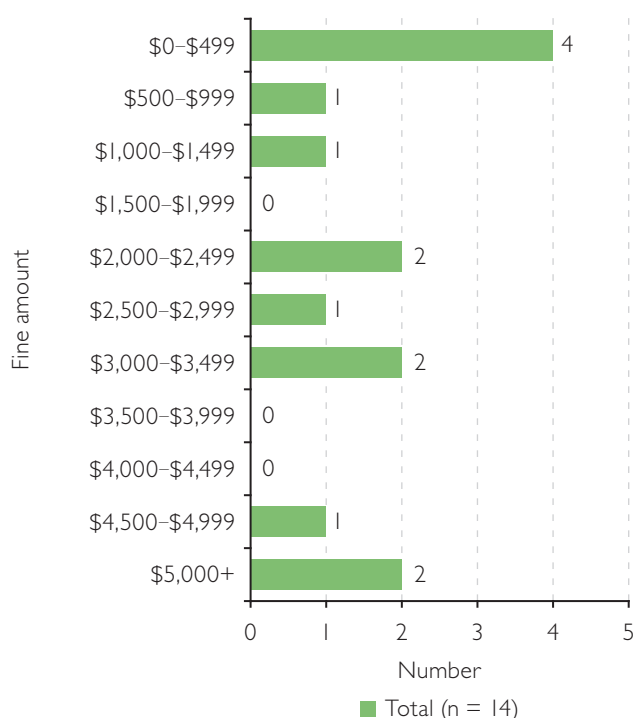
## Fines

This analysis includes all fines that were imposed for cases where obtaining a financial advantage by deception was the principal offence. Fines were imposed on 14 people.

The fine amount imposed ranged from \$100 to \$30,000, with a median of \$2,100 (meaning that half of the values fell below \$2,100 and half of the values were above \$2,100).

The average fine amount was \$4,121. The average fine amount given to males was \$4,092. One female offender was given a fine of \$4,500.

**Figure 19:** The number of people who received a fine for obtaining a financial advantage by deception by fine amount, 2005–06 to 2009–10



## Appeals

A sentence imposed on a person may be appealed<sup>18</sup> by that person or by the Crown. A person sentenced may also appeal against their conviction. All appeals made in relation to people sentenced in the higher courts are determined by the Court of Appeal.

Until June 2010, no person sentenced for a principal offence of obtain a financial advantage by deception in the period 2005–06 to 2009–10 had successfully appealed their conviction. Thus, the number of people sentenced from 2005–06 to 2009–10 for a principal offence of obtain a financial advantage by deception remained at 210 people once appeals are considered.

As a result of successful appeals against sentence, the total effective sentence and/or the non-parole period changed for 14 people. Of these appeals, 13 were made by the person sentenced and resulted in a sentence reduction and 1 was made by the Crown. The longest total effective imprisonment term to be reduced was a sentence of 11 years and 4 months, which decreased to 8 years.

The principal sentence changed for 8 people as a result of a successful appeal. The longest principal sentence of imprisonment reduced was 4 years, which decreased to 3 years.

With the original sentencing data revised to incorporate appeal outcomes, the adjusted longest total effective imprisonment term was unchanged at 12 years and the adjusted median length was 3 years (previously 3 years and 6 months). The adjusted longest non-parole period remained 9 years while the median was 1 year and 10 months (previously 2 years).

The adjusted longest principal sentence of imprisonment was unchanged at 7 years and the adjusted median imprisonment term remained 2 years.

## Summary

Between 2005–06 and 2009–10, 210 people were sentenced for obtaining a financial advantage by deception in the higher courts. Over this period, the majority of those sentenced were men (76%), while 51% were between the ages of 35 and 49 years.

Around one-third of the people sentenced for obtaining a financial advantage by deception received a wholly suspended sentence of imprisonment (32%), while 31% received a period of imprisonment, 9% received a partially suspended sentence of imprisonment and 8% received a community-based order.

Men were more likely than women to be sentenced to a period of imprisonment. Conversely, women were more likely to be sentenced to a wholly suspended sentence of imprisonment or a community-based order.

Wholly suspended sentences of imprisonment were most common for people aged between 45 and 49 years while imprisonment was more common for those aged between 40 and 44 years.

Each of the 210 people was sentenced for an average of 9.41 offences, including 5.24 offences of obtaining a financial advantage by deception. The most common offence finalised in conjunction with obtaining a financial advantage by deception was attempt

to obtain a financial advantage by deception (23.3% of all cases). 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 and 6 months, while the median principal imprisonment length was 2 years.

Total effective imprisonment lengths ranged from 7 months with no non-parole period to 12 years with a non-parole period of 9 years. The most common sentence of imprisonment was 2 years with a non-parole period of 1 year.

A small number of people were able to successfully appeal against their sentences. When the results of the appeal outcomes are incorporated into the original sentencing data, the range of both total effective imprisonment lengths and principal imprisonment sentence lengths was unchanged.

The most common partially suspended sentence length was 1 year and 6 months with 1 year suspended, while the most common wholly suspended sentence length was 1 year.

## Endnotes

1. This report presents sentencing outcomes for people sentenced for the principal offence of obtaining a financial advantage by deception in the County and Supreme Courts of Victoria. The principal offence describes the offence proven that attracted the most serious sentence according to the sentencing hierarchy. The analysis will therefore exclude people sentenced for obtaining a financial advantage by deception who received a more serious sentence for another offence forming part of the same presentment or indictment. There were 328 people sentenced from 2005–06 to 2009–10 for 1,544 offences of obtaining a financial advantage by deception. Obtaining a financial advantage by deception was the principal proven offence for 210 of these people.  
  
This series of reports includes custodial and non-custodial supervision orders imposed under part 5 of the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic) as sentencing orders and in the count of people sentenced. These orders are not sentencing orders, as they are imposed in cases where the defendant is not guilty because of mental impairment. However, they are included in this report as they are an important form of disposition of criminal charges.  
  
This Sentencing Snapshot is an update of Sentencing Snapshot no. 77, which described sentencing trends for obtaining a financial advantage by deception between 2003–04 and 2007–08.
2. The information source for sentencing outcomes for obtaining a financial advantage by deception only contains information on age and gender characteristics. No other demographic analysis is possible.
3. The source data for the statistical information presented in this Snapshot were provided by Court Statistical Services, Department of Justice (Vic). 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 are accurate, the data are subject to revision.
4. *Crimes Act 1958* (Vic) s 82.
5. *Crimes Act 1958* (Vic) s 82(1).
6. The value of a penalty unit changes each year and can be found in the Victorian Government Gazette and on the Office of the Chief Parliamentary Counsel website <[www.ocpc.vic.gov.au](http://www.ocpc.vic.gov.au)>.
7. The power to hear this offence summarily has changed over time. Prior to 1 July 2007, schedule 4 of the *Magistrates' Court Act 1989* (Vic) allowed this offence to be heard summarily 'if the amount or value of the financial advantage alleged to have been obtained does not in the judgement of the Court exceed \$25 000'. After 1 July 2007, the *Magistrates' Court Act 1989* (Vic) was amended to allow this offence to be heard summarily 'if the amount or value of the financial advantage alleged to have been obtained does not in the judgement of the Court exceed \$100 000'. The power to hear this offence summarily was subsequently transferred to schedule 2, item 4.10 of the *Criminal Procedure Act 2009* (Vic) on 11 March 2009. There were no significant changes to the type or value of the property that would allow the offence to be heard summarily.
8. *Criminal Procedure Act 2009* (Vic) s 29. Prior to the *Criminal Procedure Act 2009* (Vic) coming into effect, section 53 of the *Magistrates' Court Act 1989* (Vic) provided similar powers to allow the Magistrates' Court to hear this offence summarily.
9. The decrease in the number of people sentenced in the higher courts for obtaining a financial advantage by deception from 2006–07 to 2007–08 coincides with changes to the *Magistrates' Court Act 1989* (Vic), which took effect on 1 July 2007 as described in fn 7.
10. Immediate custodial sentence includes imprisonment, partially suspended sentence, aggregate imprisonment and aggregate partially suspended sentence.
11. Obtaining a financial advantage by deception is not defined as a 'serious offence' for the purposes of section 27(2B) of the *Sentencing Act 1991* (Vic). Section 27(2B) provides that a court may impose a wholly suspended sentence for serious offences committed on or after 1 November 2006 only if there are found to be exceptional circumstances.
12. Age is as at the time of sentencing. Four people were excluded from the graph because their ages were unknown.
13. Defendants who are under the age of 18 at the time of committing the alleged offence and who are not 19 years or older at the time proceedings commenced may be dealt with in the Children's Court of Victoria.
14. Of the 76 people who were given a principal sentence of imprisonment, 74 were also given a total effective sentence of imprisonment. There were 2 people who were given imprisonment as the principal sentence for obtaining a financial advantage by deception and a partially suspended sentence as a total effective sentence.
15. One person was not eligible for parole because they were given a total effective sentence length of less than 1 year.
16. One person was not given a non-parole period relating to that case alone, but a non-parole period that also related to other cases. It is not possible to determine the length of the non-parole period that relates to this case. The non-parole period for this person is excluded from the analysis. A non-parole period was not set for 1 person who was eligible for a non-parole period.
17. Sentence lengths that are longer than 1 year are rounded down to the nearest year of imprisonment, while sentence lengths of less than 1 year are grouped into the '<1 year' category.
18. Appeals data were collected by the Sentencing Advisory Council from transcripts of sentencing remarks of criminal appeals on the Australasian Legal Information Institute's website <[www.austlii.gov.au](http://www.austlii.gov.au)>.

## Sentencing Snapshots is a series presenting summary information on sentencing trends in Victoria

### *Sentencing trends in the higher courts, 2005–06 to 2009–10*

- 112 Making a threat to kill
- 111 Culpable driving causing death
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- 109 Murder
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- 107 Obtaining a financial advantage by deception
- 106 Theft
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### *Sentencing trends in the higher courts, 2004–05 to 2008–09*

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- 101 Trafficking in a commercial quantity of drugs
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- 99 Incest
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- 95 Causing injury
- 94 Causing serious injury recklessly
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- 88 Sexual penetration of a child aged between 10 and 16
- 87 Making a threat to kill
- 86 Culpable driving causing death
- 85 Manslaughter
- 84 Murder
- 83 Rape
- 82 Maintain a sexual relationship with a child under 16
- 81 Indecent act with a child under 16

- 80 Indecent assault
- 79 Arson
- 78 Obtaining property by deception
- 77 Obtaining a financial advantage by deception
- 76 Theft
- 75 Handling stolen goods

### *Sentencing trends in the Magistrates' Court, 2004–05 to 2007–08*

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- 73 Driving while suspended
- 72 Driving while disqualified
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- 70 Trafficking ecstasy
- 69 Trafficking cannabis
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- 66 Possessing ecstasy
- 65 Possessing cannabis
- 64 Possessing amphetamines
- 63 Causing injury recklessly
- 62 Causing injury intentionally
- 61 Causing serious injury recklessly
- 60 Going equipped to steal
- 59 Handling stolen goods
- 58 Aggravated burglary
- 57 Burglary
- 56 Other theft
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- 54 Theft from a shop
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- 52 Theft of a motor vehicle

### *Sentencing trends in the Magistrates' Court, 2004–05 to 2006–07*

- 51 Knowingly possess child pornography
- 50 Indecent act with a child under 16
- 49 Indecent Assault

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