

265.6

R v Vaughan-Williams 2015 EWCA Crim 476 D pleaded early to fraud. He induced a friend, V, to invest in a company on the basis of lies. V lost about £25,000 which he had saved all his life for a house and that was now gone. V said he was financially crippled by the fraud. The Judge started with the offence in Category 3A with a leading role. Because of the effect on the victim, he moved it to Category 2 with a 5-year starting point. Because the loss was only £25,000 not the £50,000 midpoint, he moved it down to 4 ½ years, making 3 years with plea. Held. The Judge was entitled to move the case into Category 2 but in value terms it was near the bottom of the range in Category 3 [which should have been reflected in the sentence]. We start at 42 months making 28 months with plea.

265.24 *Breach of trust frauds***Post-guideline cases**

R v E 2015 EWCA Crim 445 D was convicted of a section 1 and 3 fraud. He was the father of V, who was aged 8 and suffered from a rare terminal illness that accelerates ageing. She was not expected to live beyond 12 or 13. A motorcycle club devoted their annual fundraising efforts to her so she could go to America and swim with dolphins. £3,500 was raised and given to D. He spent the money on himself. When questioned, he lied. The motorcycle club said they no longer collect for individuals. D was aged 41 with 19 court appearances for 50 offences including dishonesty. In 1989, he was given 18 months detention for child cruelty. In 1988 and 1989, he was given community orders for theft from an employer. In 1989, he received 21 months for a dwelling burglary and concurrent sentences for obtaining by deception and another theft from an employer. In 2000, he was given a short prison sentence for various dishonesty offences. In 2005, a community order was given for a firearms offence and handling. A charity attested to his work for his daughter. The Judge said D had greatly abused the members of the motorcycle club. Further, D had blighted those who needed the club's charity and those who give or raise money for charity. The actual loss did not give significant assistance to him. Held. D had betrayed V, the givers and damaged the confidence of those involved in charity. **3 years** allowed for D's family mitigation.

R v Ousey 2015 EWCA Crim 984 D pleaded (full credit) to fraud at the Magistrates' Court. For 23 years he was employed by a group of companies and he became financial director and then Chief Financial Officer. Over four years, he submitted 11 bogus invoices worth about £227,000. He paid the money into a bank controlled by himself. He was able to buy two properties in Portugal. It was also discovered he had paid himself substantial benefits which he was not entitled to. The group issued civil proceedings for that loss. He settled with them by paying about £1.4m to them, which included him giving up his pension rights and paying back the £227,000 as well. D helped in the investigation and paid money for that. D also paid the money before the criminal proceedings were started. D was aged 51 and of good character. He was remorseful and had a very favourable prison report. The Judge put it as Category 2A and started at 5 years as that was the guideline figure. Held. There was very substantial mitigation available. There were no aggravating factors. We start at 4 years, so with the plea **32 months**.

See also: *R v Choi* 2015 EWCA Crim 1089 (Early plea to dishonestly making false representation. Former school finance officer able to access funds. Took £40,000 but never spent it. Good character. High culpability, but **18 months** not 2 years.)

