

Sir Robert Neill MP
Chair, Justice Committee
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The Rt Hon Lord Justice William Davis
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Dear Bob,

I read with interest the Justice Committees' report: *Fraud and the Justice System*.

The report contains the following recommendation:

Sentencing guidelines should be amended to give greater consideration to the emotional and psychological harms caused by fraud crimes alongside the financial losses incurred.

This recommendation appears to have arisen from evidence received by the Committee, including from the City of London Police, that the fraud guidelines overlook the emotional and psychological effect that fraud crimes can have on their victims. It is stated in the report that "for crimes where the financial loss is less than £5,000, the maximum tariff is one year's custody".

I am afraid that this evidence seems to be based on a misconception of the current guidelines. Whilst it is true that the guidelines for benefit fraud and tax fraud (where the victim is by definition the state) *do* measure harm solely with reference to financial loss, the fraud guideline – which applies to those cases where the victim can be an individual – has a two-stage approach to harm that specifically requires the court to take into account the impact on the victim "whether financial or otherwise". In cases where that impact is high the court will move up a category range, so that the maximum sentence under the guideline for an offence where the financial loss is less than £5,000 is actually three years' custody.

This two-stage approach to the assessment to harm was welcomed by the then Justice Select Committee in its response to the consultation on the fraud guidelines in 2013.

On this occasion we were unaware of the recommendation within the report relating to our guidelines until it had already been published, so were unable to correct this point in advance of publication. We would of course be happy to co-operate on any future inquiries that may result in recommendations that relate to the work of the

Council and to provide such information and evidence as may be useful to the Committee in formulating a final report.

Yours sincerely,

A handwritten signature in black ink that reads "Bill". The signature is written in a cursive style with a horizontal line underneath it.

LORD JUSTICE WILLIAM DAVIS
CHAIRMAN OF THE SENTENCING COUNCIL