

FRAUD OFFENCES



What is a Fraud?

Fraud is generally described as deceptive conduct intended to result in some form of personal gain.

Fraud offences may include:

- Obtaining Property by Deception
- Obtaining a Financial Advantage by Deception
- False Accounting
- Making or Using False Documents
- False Statements by Company Directors
- Suppression of Documents
- Blackmail

Fraud charges can range from fraudulently obtaining an item of food from the supermarket to multi-million dollar frauds. The penalty may only sometimes be a client's most significant concern for minor dishonesty offences. Often it is the severe consequences attached to having a criminal record for dishonesty.

Being Interviewed Regarding Fraud

Suppose you are involved in a fraud investigation and will be interviewed by the Victorian or Australian Federal Police. In that case, you must seek expert legal advice before this occurs. The same applies to any interviews conducted by an employer, forensic investigator or similar. Be very wary about participating in these interviews without speaking to someone first.

Avoiding a Prison Sentence for Fraud Cases

Serious examples of fraud regularly end in prison sentences.

The seriousness of the offence depends on the following:

- The value or amount of the property or financial advantage involved;
 - The duration of the offending,
 - The level of complexity and sophistication the accused acted with,
 - The level of trust placed in the accused; and
 - The detriment caused to the victim.
- Common defences for fraud cases

To be found guilty of obtaining property or financial advantage by deception, the Prosecution must establish three elements:

The accused represented themselves in a way that they knew to be false (or they acted recklessly without full knowledge that they were being deceptive); The victim believed the representations by the accused were true; and the accused was dishonest.

Essentially, the accused must have been aware that they were deceiving the victim (or acting recklessly without full knowledge that they were truly being deceptive), and the victim must have been genuinely deceived by the accused.

Further, 'dishonest' in this context refers to the accused acting without a belief in the property's legal ownership rather than the word's ordinary meaning. With that said, a moral belief in property alone is insufficient.

The most common defences for fraud cases involve the defence dismantling one, two or all of these elements to establish guilt. The team at David Tamanika Solicitors can assess and navigate through the best course of action to provide you with the best outcome.