

Mr Solak, you have pleaded guilty to one count of possession of child exploitation material and one count of accessing child exploitation material. The circumstances in which the crimes were committed are these. On 31 January 2017, you were convicted by the Magistrates Court of one count of possessing child exploitation material. A two month suspended sentence was imposed, suspended for three years. In April 2019, when you were in the course of travelling overseas, your laptop was examined by the customs authorities and found to contain images which amounted to child exploitation material. There was a search conducted of your premises on 5 June 2019. Further devices were located, which included a second laptop and a USB device. Further child exploitation material was found on that electronic equipment. In total, you were in possession of, and have accessed, 674 images which amount to child exploitation material.

The images were categorised according to the relevant ANVIL categorisation system, and were, in aggregate, found to fall within the following categories. There were 572 images in Category 1, which is probably the least serious of the categories. 33 images in Category 2, which depicted non-penetrative sexual activity between children or solo masturbation by a child. There was 1 image in Category 3, which depicted non-penetrative sexual activity between an adult and a child. There were 6 images depicting penetrative sexual activity between children, or adults and children, which included, at least in this case, according to what I have observed, intercourse. That was in Category 4. There were 13 images in Category 5. I am not sure that I saw samples of that, but, in any event Category 5 consists of images which display children subjected to sadism, bestiality or child abuse, whether or not sexual activity is present. 49 images depicted animated or virtual sexual activity, which is in Category 6. Then there were other images that I need not concern myself with, which do not amount to child exploitation material. I have examined a sample of that material. It is clear from my examination that the children involved were very young. They seem to me to range in age, from what appears to be prepubescent boys and girls, through to perhaps slightly older children. But, in overview, the images predominantly involve very young children. In some cases, the most serious cases, as I have already said, there was penetrative sexual conduct depicted, and there are also clearly, at least in one image, very clearly depicted, a female adult and a very young child.

I would observe that there are cases that have come before me where there are far greater quantities of child exploitation material, and activity which exceeds in its depravity and seriousness, the images which I observed. However, having said that, I have also seen less serious cases, and, in any event, the images which I saw constituted a significant number of child exploitation material items and depict what is obviously very serious sexual abuse being perpetrated against young children.

You are 40 years of age. I have been given considerable detail about your background from your counsel. There is nothing really about your upbringing or subsequent life which is noteworthy in relation to its connection to the commission of these crimes. I am told that your explanation for possession of this material is an addiction to pornography which started as an interest in adult pornography, which, of course, is not illegal, and you then proceeded to expand your interest to child exploitation material. I am not entirely sure that the medical evidence supports the fact that there is an addiction, at least in the sense that it results from ingrained psychological issues, or predispositions. The psychologist's view is that in your case, the

pathway to becoming interested in this material and maintaining that interest was, what he described, as intimacy and social skill deficits. It seems to me that they are not ingrained psychological conditions. They are a reaction to your experience, which has included some emotional disappointment and trauma arising from the breakdown of your marriage and some social isolation. However, in effect, your commission of these crimes seems to me to amount to a choice by you to access and have regard to this material.

Apart from the matter that I referred to in 2017, you have no other prior convictions of significance. However, that is not unusual in cases such as this. I am told that after your initial conviction and the imposition of a suspended sentence of imprisonment, which was obviously intended by the court to be a lenient method of dealing with your offending, and to support and encourage rehabilitation, you, according to your counsel, naively thought that you would be in a position to deal with your addiction yourself, and did not seek any help, and relapsed into the habit which had been previously formed of accessing and possessing this material.

Since being arrested in respect of these crimes, you have taken a different approach. You have sought and have maintained counselling, both through Holyoake and through your church. It seems that you are engaging well in that counselling, and, at least as far as what appears from your actions in the relatively limited time since you were charged with these offences, it would seem that you are committed to reform. I am asked to, and do, accept your plea of guilty as evidence of the fact that you are remorseful and are committed to reform.

Having said that, your rehabilitation and consideration of whether there is a need for specific deterrence are informed by these considerations. They are relevant sentencing factors, but they are not the only sentencing factor. In fact in this case, they are not the most important sentencing factors. The issue for this Court is the need to deter those who would act as you have done and access and possess child exploitation material, from doing so. Production of that material, self-evidently, involves the serious sexual abuse of numerous young and vulnerable children, and that is the primary sentencing consideration for this Court. It is accepted that, in this case, you did not seek to disseminate the material. You were not part of some kind of organised distribution or sharing network, which is sometimes seen in cases such as this. I accept that those more serious aspects do not arise in this case. But, even accessing the material for your own benefit provides a market to those who produce and disseminate such material, and therefore fosters and supports the abuse of children. That is a matter that is of primary concern to the Court. I conclude therefore that general deterrence and denunciation of the conduct are the most important sentencing considerations.

I make the point also that the fact that you were initially dealt with by way of a suspended sentence and have continued offend is not the only matter that is relevant to the issue of your own decision-making in respect of this material and the need for specific deterrence. It is also relevant to general deterrence. This is a repeated crime involving a considerable amount of child exploitation material.

The requirement of general deterrence requires the imposition of a sentence of actual imprisonment, in my view. You were dealt with leniently on the last occasion. You have, in effect, rejected the opportunity that was offered to you in respect of that sentence, and it seems to me that there is really no option in this case other than the imposition of a sentence of actual imprisonment. I do intend to recognise your plea of guilty, the efforts you have made towards rehabilitation, and what I accept is a genuine commitment to reform, by suspending some, but

not all of the sentence. Suspension of part of the sentence will provide you with an ongoing opportunity and encouragement to continue with the process of rehabilitation.

In relation to the suspended sentence imposed by the Magistrates Court, the law requires me to activate the sentence unless I am of the opinion it would be unjust to do so. I am simply not of that opinion. Accordingly, I must activate that sentence. It was precisely the same conduct that was committed on this occasion. The suspended sentence was intended to deter and prevent such conduct from occurring again. It did not do so. Your conduct in this case involved the accessing and possession of a substantial quantity of material, which was clearly in breach of both the aim and the literal requirements of the sentence. There is simply no basis on which I can find that it would be unjust to activate that sentence, so it will be activated.

The orders I make are these:

You are convicted of the crimes to which you have pleaded guilty.

The suspended sentence imposed by the Magistrates Court on 31 January 2017 is activated. I will backdate that sentence to yesterday [23 June 2020], to take account of the fact that you spent one day in custody. You are not eligible for parole in respect of that two month sentence.

For the crimes to which you have pleaded guilty, you are sentenced to a global term of nine months' imprisonment, which will be served cumulatively upon the activated two month sentence. The last five months of that nine month sentence will be suspended for a period of two years, which will commence on the date of your actual release from prison. The condition of suspension will be that you are not to commit an offence that is punishable by imprisonment during that time. You are not eligible for parole in respect of the operative part of that sentence.

For the purposes of s 92A of the *Sentencing Act*, I specify that the total time to be served under the two sentences is an aggregate period of six months, and you are not eligible for parole in respect of any part of that sentence.

I make the forfeiture order which has been sought by the prosecution.

With respect to the *Community Protection (Offender Reporting) Act*, I am required to make an order pursuant to that Act unless I am satisfied that there is no risk of you committing a reportable offence in the future. I cannot be satisfied of that in light of the circumstances of this case, a repetition of conduct. Accordingly, I order that you be placed on the register and be made subject to the requirements of that legislation for a period of five years to commence at the expiration of the current period, which I understand is in September 2021.