

Mr L, you have pleaded guilty to penetrative sexual abuse of a young person. In 2018, when you were 24, you became friends with a girl aged 16 who worked in the local supermarket. You were aware of her age and that she was a high school student. You began to see her regularly. You started messaging each other on social media in increasingly affectionate terms. In late October 2018 she invited you to her home after you had finished your shift at the local hotel. When you arrived it was well after midnight and she was the only person there. Her older sister and her sister's husband were away. She consumed some alcohol and you socialised. Sexual contact commenced and progressed to consensual vaginal sexual intercourse. In the course of the intercourse she indicated she wanted to stop and you complied. You both redressed and continued to sit and talk. Because of her age you decided together not to tell anyone what had happened. Affectionate communication continued between you for about a week but there was no further sexual contact.

Almost two months later, on 17 December 2018, you informed your general practitioner what you had done. At about the same time your wife discovered social media messages between you and the complainant. You self-presented to the police and confessed to what you had done. The complainant was spoken to by the police but did not wish to be interviewed or make a statutory declaration. She agreed that the sexual intercourse was consensual, but appeared embarrassed and upset in case the community might become aware of the incident.

You are now aged 26. You are married but currently have no children. You have no prior convictions. You have an industrious background and are in full employment. You were recently convicted and made subject to an undertaking to be of good behaviour for an offence committed on 17 December 2018, the day your wife discovered the text message. I infer that this arose from conflict within your marriage, probably at least in part as a result of this crime. It is in your favour that you have pleaded guilty at an early stage. Your conduct would probably not have come to light without your own disclosures and admissions. There has been some delay arising from confusion about the date you were required to appear in this Court which was resolved by you, again, presenting yourself to the police. All of that indicates an acceptance of responsibility and remorse. I am satisfied that the relationship between you and the complainant arose from mutual affection. You did not set out to take advantage of her. Had the sexual intercourse occurred six months or so later, it would not have been unlawful. It was a single occasion. However, there was a difference in age of eight years and a corresponding difference in sexual and emotional maturity. You should have resisted temptation when the occasion presented it to you. It is an aggravating factor that you did not wear a condom. That carries with it the risk of pregnancy and transmission of disease. There is no suggestion that either of those things happened, but it indicates a careless attitude for her welfare. You were well aware at the time of the wrongfulness of your conduct. One object of this crime is primarily to protect young people from sexual activity until they are old enough and mature enough to make sensible decisions on their own behalf. Young persons require protection not only from those who seek to take advantage of them, but also from themselves. There is no indication of any particular adverse impact on this complainant beyond what I have already said about the potential for embarrassment, and she declined the opportunity to make a victim impact statement, but the consequences for a young person of engaging in premature sexual relations, even if consensual, can be detrimental and damaging and may not emerge until much later. It is important that this is made clear to you and others who may be tempted to act in a similar way.

I am satisfied that a wholly suspended sentence of imprisonment is the appropriate sentence. That sentence reflects the criminality involved in your conduct, but balances that with the factors in your favour and gives you the opportunity of avoiding having to serve the sentence. It is a condition of every suspended sentence that, while it is in force, you do not commit another offence punishable by imprisonment. You should clearly understand that, if you breach that condition, the sentence will be activated, and you will be required to serve it, unless that is unjust.

I am required to make an order under the *Community Protection (Offender Reporting) Act* 2005, unless I am satisfied that you do not pose a risk of committing a reportable offence in the future. In the particular circumstances of this case I am so satisfied. You disclosed and admitted your conduct. You have not engaged in any such conduct either before or since. I am satisfied that there is no appreciable risk that you will commit a reportable offence in the future, and I decline to make an order under that legislation.

J L, you are convicted. You are sentenced to imprisonment for five months, wholly suspended for 18 months from today.