

The defendant has pleaded guilty to four counts of involving a person under 18 in the production of child exploitation material, four counts of grooming with intent to expose a young person to indecent material, and two counts of possessing child exploitation material. One count of each of the first two charges mentioned relate to four different complainants. These matters came to light on 19 June 2020 when police searched the defendant's home in relation to the distribution of child exploitation material from the internet service associated with that address, and possession of such material. The defendant's phone was found to contain child exploitation material and sexually explicit grooming communications with the complainants, as well as images and videos of the defendant, naked, partially naked and masturbating. I will later deal with the charges of possession. The defendant had downloaded social media applications to his phone allowing him to meet, talk to and share images and videos with other people. In particular, he had Snapchat, one of the features of which is the automatic self-deletion of messages once viewed; another was Whatsapp, a text and media messaging service which also allows users to make phone calls. The defendant's user name on Snapchat was Mike, while that on Whatsapp was Santa Clause [sic]. In the Crown statement of facts, the complainants were simply given numbers, and I will adhere to that description. Child exploitation material was given the acronym CEM, and I will also use that for convenience. As of June 2020, C1 was 15 years old and a resident of Hobart. Between mid-November 2019 and 16 June 2020, the defendant and C1 regularly communicated by way of voice calls and text messages, with most communication being through Snapchat. C1 knew the defendant as Mike and believed he was single. The defendant was aware of C1's age from at least 23 December 2019. A series of images found on the defendant's phone in an application known as KeepSafe were of C1 naked in front of a mirror with the words "Daddy's Girl" written in marker on her upper chest, and the words "15 today" written in marker on her mons pubis. There were also images of C1 in her school uniform sent to the defendant, some of which constituted CEM. An analysis of the phone showed that in late March to mid-June 2020 there were 72 phone calls between the two, and nine video calls made by the defendant to C1's phone. In the 14 days from 4 June 2020 to 18 June 2020, C1's Snapchat history revealed that about 4,300 text and video messages were exchanged between the two. Of these, C1 sent about 2,300 and received about 2,000. During the relevant period each expressed love for the other, and C1 told others that the defendant was her boyfriend. On occasions the defendant became jealous when C1 was spending time with other boys. On 20 December 2020, he sent her a message accusing her of cheating on him with other boys and wrote to her in quite abusive terms. This caused a break in the relationship but they reconciled. During the relevant period the defendant sought CEM from the complainant. He would direct her as to what sexual acts should be performed and recorded, and sent to him. These included images of her holding objects against her vaginal area or inserting objects into her vagina. The defendant would often comment on the images in graphic terms. He sent videos of himself naked and masturbating.

As of 19 June 2020, C2 was 16 years old and a resident of Hobart. She became involved with the defendant from at least early November 2019. That involvement continued until 10 February 2020. C2 was a friend of C1, and that is how the defendant was able to message her. She also believed his name was Mike. She told him she was 16 years old two days after he first messaged her. He told her he wanted to be in a relationship with her, but she believed the defendant was already in a relationship with C1. The defendant tried to establish what was to be called a boyfriend/girlfriend relationship with C2. Here again, he became jealous when he found out she was communicating with boys. He continually asked her to send images and

videos to him of her naked. He asked a number of times to meet in person, offered to pick her up and told her that he wanted to sleep with her. She initially rejected his requests for images and videos but finally relented, sending in total five images and two videos of herself depicting her naked, partially naked or engaged in solo sex acts, including a video of her inserting the handle of a hairbrush into her vagina. During this period the defendant sent pictures of himself, including two while he was in the shower and about six videos of himself naked, masturbating and/or rubbing his hands over his body. In mid-February 2020 C2 stopped responding to messages from the defendant, and eventually blocked him on Snapchat. He responded by saying that it would not be a good idea to do that.

At the relevant time, C3 lived in the United States of America. From 19 December 2019 to 3 March 2020, she and the defendant communicated via messaging apps, mostly Whatsapp. The true and accurate age of this young person is not known but on 20 December 2019, she told the defendant she was 14; the defendant told her he was 22 and single. She believed his name was Mike. Through the messaging services the defendant asked C3 to send him images of herself. Some suggestive but relatively innocuous images were sent. Shortly after their online communication was started, the defendant told her he loved her and wanted a relationship with her. At some stage they agreed they were "boyfriend and girlfriend". In this instance also, the defendant exhibited controlling behaviour. He showed jealousy in relation to her talking to other boys and pressured her to give him her Snapchat password which she did. He then accessed her account and communicated with her friends. He told boys that she was his girlfriend and to leave her alone, and would block other boys who were following her on Snapchat. He became angry and demanding through the course of the communications. Ultimately he pressured her to make a video and send it to him and to send some pictures. In the course of a subsequent conversation the defendant cajoled and encouraged her to the point where she sent images of herself, naked, showing her vagina with what appears to be a marker pen inserted into it. From the messages, C3 was clearly not comfortable in doing this. She later sent him photos of herself with her breasts exposed at his request, and he sent her images and videos of himself masturbating and exposing his penis. Those messages being accompanied by suggestive comments. In total there were about 9,850 exchanged messages between the two, the last of which was on 9 March 2020.

As of June 2020, C4 was 14 years old and lived in New South Wales. In mid-December 2019, the defendant approached her online; they were otherwise unknown to each other. She knew him as Mike and told him her age. They did not meet in person. C4 did not know the defendant's age, but from pictures of him, believed he was at least in his 20s. Most of the contact occurred by messaging through Snapchat and Whatsapp. There was some phone contact but he said he was not comfortable with that as a third person would know she was not similar in age. Almost immediately, the defendant started to ask her to send him nude images of herself. He told her he loved her and continued with the request for nude images, telling her that since they were boyfriend and girlfriend it was all right for her to send them. She continued to refuse but did send him images of her in her bra. A lengthy exchange about those images took place on 19 December 2019 during which he encouraged her to send photos of her naked. The defendant sent messages referring to how hard she made him feel, and referring to a need to feel her arms "with your sexy body grinding up against mine". He also sent her a number of images of himself in his underpants, and on one occasion a photo of himself naked with his penis exposed. If the defendant sent a message to complainant C4 which she did not answer immediately, he would contact her multiple times on Snapchat, and if she did not answer his texts he would call. C4 later told the police she was scared of him. Between 19 December and 25 December 2019, the pair exchanged 335 messages on Whatsapp.

The first possession charge relates to material found on the defendant's phone on 19 June 2020. A total of 502 images and 54 relevant videos were found. These depicted C1, C2 and C3. The material was categorised using the Australian Child Abuse Material (CAM) method which has replaced the ANVIL scale. It seems to me to be much less informative but in any event, CAM category 1 is called "baseline/illegal". It relates to pre-pubescent material showing involvement in or witnessing sexual acts, or material focussing on the anal or genital area of a child. Category 2 involves material not classed as category 1, but relates to images of persons between 13 and 18 years of age engaged in a sexual act or in a sexual context. Category 3 is a rather vague description of material not illegal in its own right, "although it may contain important clues or identifying information to assist investigations in relation to Category 1 or Category 2 images." In this case, the total of Category 2 material is 242 images and 49 videos. As may be apparent from what I have described so far, images and videos relating to C1 show her naked or partially naked, touching her body including her vagina. There were videos of her undressing or masturbating, including with an electric toothbrush and inserting the handle of a hairbrush into her vagina. There is also a depiction of the use of a hairbrush in oral sex simulation, while she is naked or partially naked. The material relating to C2 shows her naked or partially naked exposing her vagina and breasts, and inserting a hairbrush into her vagina. The material relating to C3 shows her naked or partially naked engaged in solo sex acts including masturbating and then inserting an item into her vagina. The second possession charge relates to material found in a further search of the defendant's home on 17 July 2020. Another phone was located on which the Snapchat application had been installed. In a cloud storage facility there were 16 Category 2 images and 13 Category 3 images similar to the material earlier found, 15 of which were of C1 and one of which was of C2. The Crown asserts that all images and videos amounting to CAM were produced by the complainants as a direct result of the influence and solicitation of the defendant. I have victim impact statements of C2 and C4. C2 says her life has now totally changed. From an outgoing girl, she is now anxious and suspicious when approached in person or online. She is generally fearful for her safety. When this behaviour started she had just turned 16, and had never had a boyfriend or any sexual experience. She was shocked when the defendant's conduct of sending her pictures of himself started. She was physically fearful. When he demanded photos of her and the videos, she felt she had to do it. There was no enjoyment or excitement in it for her. She had a fear that things would be bad if she did not comply. She has found the whole episode upsetting and traumatic. It has impacted on her ability to form intimate relationships. Soon to be 18, she is fearful of allowing things to develop. She becomes upset when using social media, and is fearful to live the way she used to. As noted, she was C1's friend and has been ostracised. C4 says the events have definitely changed the way she uses social media and socialises. She told the defendant to go away, but he persisted, continuously being on Snapchat. She thought it was "pretty scary". She found it all quite intimidating.

The defendant is now 33 years old. He has some convictions for traffic matters but nothing relevant and nothing of any great significance. He has a long-term partner with whom he has been for eight years, and a daughter aged 7. The relationship was suspended when the defendant was charged, with his partner moving out, but she has returned and the two are attempting to reconcile, with the defendant keen to ensure the family stays together. In addition to counsel's submissions, I have the benefit of reports from two clinical psychologists, Damien Minehan and Annia Barron, the former report being the one more heavily relied on. The defendant appears to have had a relatively unremarkable upbringing, save for the fact that his parents divorced when he was 8 or 9 years old, and his father had been violent, leading to infrequent contact with him after separation. He completed year 12 and has a good employment record.

Most recently he has been employed in hotel accommodation, progressing through various positions to duty manager and then events manager. He has been employed with that organisation for seven years. As to this offending, there is no evidence of mental illness or other mental impairment, and no history of illicit substance abuse. Alcohol use was self-reported as a significant factor in the offending. Mr Minehan's report notes that the defendant utilised devices to access sexualised materials on the internet at the same time as using social media to engage in conversations with adult females. This was from his mid to late 20s. The defendant reported that his sexual interest developed in adolescent/teenage girls through accessing illegal sexualised materials and then ultimately to using social media to solicit images and videos from females resulting in the present charges. Mr Minehan says "He found himself seeking more illegal and morally questionable material in order to achieve arousal." The interest became increasingly specific to teenage girls, but also with aspects of power, domination and control, including use of words such as "daddy" to further his need for control and authority. In Mr Minehan's opinion, the defendant has a significant sexually deviant pattern of arousal relating to adolescent females with aspects of domination, control and targeting of victims who may be submissive and easy to manipulate. Mr Minehan identifies peripheral risk factors such as a pattern of alcohol consumption, identification as a highly sexual person, and an inability to moderate sexual desires, problems within intimate relationships and a general lack of self-control or ability to moderate and delay gratification. Although Mr Minehan refers to the defendant as a relatively young offender which is associated with an increased risk of future offending, many other factors indicative of sexual offending or repeat sexual offending are absent. These include contact sexual offences and physical coercion, significant escalation in sexual violence or offending, extreme minimisation or denial of offending, and the absence of mental illness or personality disorder. That said, Mr Minehan did note the defendant demonstrated a full understanding of the wrongfulness of his activities but voiced cognitive distortions and empathy deficits that were contributing factors to the offending. An instance is that he was aware he may get into trouble but thought he could talk his way out of it. Nonetheless empathy for the victims exists, a positive for the prospects of rehabilitation. Mr Minehan strongly recommends participation in a sex offender treatment program. Ms Barron's report does not add a great deal to these observations. The defendant expressed to her a sense of remorse and regret and earnest statements that he wanted to improve and abandon bad conduct. She has been treating him for management of stress and mood symptoms, but has not embarked on addressing the issue of deviant sexual interest. I was told that by the time this offending commenced in November 2019, the defendant's social media use had become an obsession. The pandemic created a situation where more leisure time was available to him. He spent much time alone involved in social media use.

The offences involved the use of social media by a mature adult to prey on vulnerable young people for sexual gratification. Such conduct is insidious and often highly damaging. The offending is likely to harm young people who are vulnerable to abusive, predatory approaches which are of their nature liable to be kept secret from third parties. Sexual abuse of children in whatever form is a matter of great community concern, and deserves complete condemnation. C1 seems to have been a willing participant and resistant to the investigation, but of course the law exists to protect young persons from themselves, as well as from predatory adults. General deterrence is a very prominent factor. Previous good character and even good prospects of rehabilitation do not have great weight. The defendant's conduct was deliberate, persistent, and coercive. It was done purely for sexual gratification with no reduced moral culpability arising from any mental impairment. The age disparity is high. Actual harm has been caused, and is possible to one degree or another in relation to all complainants. C2 is known not to have had any previous sexual experience at all. In the defendant's favour, I take into account the pleas of

guilty which were entered in the Magistrates Court at an early time. Although the case is really made out on the basis of what was found on the phones, there was an early acceptance of responsibility and the pleas have significant utilitarian value. In addition, I accept that the defendant has insight into his offending and is remorseful. He is keen to make a better person of himself. I take into account that the entirety of the offending represents a course of conduct between November 2019 and June 2020, with only C1 involved for the whole of that period; the others for much lesser periods. However I note that for a period, this conduct was concurrently pursued with the four complainants. Lastly, I note that the possession of the images and videos is really a by-product of the other offences, but retaining possession is a matter of concern, with the temptation of use and the possibility of it falling into other hands.

Mr Norris, I have set out the facts and the essence of the relevant features of the case and the factors to be taken into account. In my view immediate imprisonment is inevitable but there is sufficient in terms of factors in your favour and an incentive to reform to suspend the operation of part. You are convicted of all counts, and sentenced to 3 years and 3 months' imprisonment to commence on 10 May 2021, the operation of nine months of which is suspended on condition you commit no offence punishable by imprisonment for a period of two years from your release. I also think the maximum opportunity for parole is justified, and I order that you not be eligible for parole until you have served one half of the operative term. I direct that your name be placed on the Register under the *Community Protection (Offender Reporting) Act* and you will have to comply with the reporting obligations under that Act for a period of 10 years following your release. I order the forfeiture of all electronic material contained within the phones seized by police on 19 June and 17 July 2020, and the forfeiture of the Apple iPhone seized on 19 June 2020.