

Mr T you have pleaded guilty to two counts of penetrative sexual abuse of a young person. In 2014 when you were 18, and the complainant was 14, you formed a boyfriend/girlfriend relationship with her. Within a short period of time the relationship became sexual. The first time you had sexual intercourse with her was in her bedroom. You were staying overnight with the knowledge of her mother. You asked the complainant to have sexual intercourse. She was initially reluctant to do so but eventually agreed. Vaginal sexual intercourse occurred. The State acknowledge the sexual intercourse was consensual but say the complainant felt pressured to participate in sexual intercourse. The State acknowledge however that she did not convey that to you in any way and you were unaware of how she was feeling. Her agreement to have sexual intercourse in circumstances where she was uncertain, was reflective of her level of her emotional maturity at the time. A second act of vaginal sexual intercourse occurred later in the relationship. The complainant recalls this incident occurred in the spare room of her house. It was again consensual. The relationship between you and the complainant lasted for a period of approximately five months. There were other occasions throughout the course of the relationship that consensual sexual intercourse occurred, but they cannot be particularised. During the course of the relationship you had taken some photographs of the complainant in various stages of undress. After the relationship ended, an associate of yours accessed those photographs from your phone and posted them to social media. You were not responsible for the posting, but their posting nevertheless caused the complainant embarrassment and upset. When she contacted you and asked you to have them deleted you did so.

This matter was reported to police in 2019, several years after the relationship had ended. When you were interviewed by police, you agreed you had been involved in a consensual sexual relationship with the complainant at a time when she was 14, turning 15 and you were 17 turning 18. You also told the police that you did not wear condoms during any act of sexual intercourse, which of course introduces the risk of pregnancy and transmission of disease, although I note there is no suggestion that either of those things happened. The recklessness of that decision is perhaps reflective of your level of maturity at the time. I am told, and it is supported by comments made by your mother to the author of the pre-sentence report, that you were a relatively immature 18 year old.

You are now 25 years of age. You are in a supportive relationship. Your current partner has a child and you undertake a parenting role in respect to that child. You have a number of prior convictions but nothing I consider to be of great relevance. There has been a considerable abatement in your offending since 2019. I am told a number of the prior matters that occurred up until 2019 were a consequence of you consuming too much alcohol and spending time with the wrong people. Over the past few years, you have worked hard at reducing you alcohol consumption and are now largely abstinent.

You have the support of your parents and siblings. Recently, you have held a number of positions of casual employment. You are currently working with a job network agency in the hope of obtaining a more permanent position. I take into account your plea of guilty. It has saved the complainant the ordeal of having to give evidence. It also indicates an acceptance of responsibility and facilitates the administration of justice. There is nothing to suggest the relationship between you and the complainant arose from anything other than mutual affection. The complainant's mother was aware of your age and permitted you to stay overnight at the residence. The age disparity between you and the complainant was three years and 5 months.

Had the sexual intercourse occurred after 15 April 2015, when the complainant turned 15, or had the age difference been 5 months less, the acts would not have been unlawful. There is nothing to suggest you behaved in a manner that was coercive, overbearing or predatory. Nevertheless, the law recognises the need to protect young persons from the consequences of decisions they lack the emotional and intellectual maturity and judgment to sensibly make for themselves.

The complainant has suffered some emotional distress as a consequence of engaging in premature sexual relations. It is commonly understood that much harm can be caused to those who engage in sexual activity before they are old enough to make reasoned and informed decisions about what they are doing. In sentencing a matter of this nature it is important it is made clear to you, and others who may be tempted to act in a similar way, that the potential for significant deleterious consequences is very real and should not be underestimated, even though such consequences may not emerge or be understood until much later.

I have had the benefit of a pre-sentence report. I have regard to its contents. The report indicates you have been assessed as suitable for both a community corrections supervision order and community service. However, because of the need for the sentence to emphasise general deterrence, and reflect the obligation that falls on the Court to protect young people from behaviour such as this, I have determined that a period of imprisonment must be imposed. Because of the limited disparity in age between you and the complainant, and the positive changes you have made in your life in recent years, I am satisfied the period of imprisonment should be wholly suspended.

I make the following orders. You are convicted of the crimes to which you have pleaded guilty. I impose a global sentence of 5 months' imprisonment, the whole of which is suspended for a period of 18 months from today on condition that you are not to commit another offence punishable by imprisonment during that period. I also impose a community corrections order for a period of 12 months from today's date. The statutory core conditions of a community correction order are imposed. Those conditions will be set out in a document that will be provided to you. In summary, they will include the following conditions that will apply for the entire operational period:

- You must not commit an offence punishable by imprisonment;
- You must report to a probation officer as required by the probation officer;
- You must comply with the reasonable and lawful directions of a probation officer or a supervisor;
- You must not leave or remain outside of Tasmania without the permission of a probation officer; and
- You must give notice to a probation officer of any change of address or employment before or within 2 working days after the change.

I impose the following special conditions:

- You must during the operational period of the order submit to the supervision of a probation officer as required by the probation officer. You must for the duration of the operational period of the order submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer, including attending at and participating in specialist sexual offending counselling or support programs as directed.

I order you must report to Community Corrections, Reece House, Burnie by close of business Monday, 4 April 2022.

These are reportable offences under the *Community Protection (Offender Reporting) Act 2005*. In the circumstances of this case, and having regard to the passage of time since the commission of the offences, I am satisfied that there is no appreciable risk that you will commit a reportable offence in the future. Accordingly I decline to make an order pursuant to the Act.