

Mr S, you have pleaded guilty to one count of penetrative sexual abuse of a young person. The crime was committed by you on the evening of 13 September 2018. You were 23 years of age and the female complainant was 15 years of age. You were an acquaintance of the complainant's mother, and it seems you regularly visited the home to socialise with her and others. In the months leading up to the crime you had sent the complainant a number of sexualised messages over various social media applications. These messages were usually sent at a time when you were at the complainant's home drinking with her mother. After sending the messages you told the complainant to delete them. This suggests to me you were well aware your behaviour was inappropriate. On 13 September you were drinking with the complainant's mother and others in the shed at her residence. The complainant was in her bedroom unwell. Throughout the evening you sent the complainant messages inquiring as to her wellbeing. At one point you sent a message which said, "I want to come in and cheer you up and do naughty things". You then proceeded to send further messages describing the sexual acts you wished to engage in with her. You went to the complainant's bedroom. The complainant was in bed. You laid down next to her, put your arm around her and began kissing her neck and rubbing your hand on her leg. You proceeded to have vaginal sexual intercourse with her. This lasted for around 10 minutes. You were not wearing a condom. You left the complainant's bedroom and went back to the shed where you continued drinking. The following day the complainant blocked you on a number of social media applications, and blocked you from contacting her via her mobile phone, suggesting that despite the consensual nature of the act, she had some regret about the incident, a reaction that I consider to be entirely consistent with the emotional maturity of a 15 year old.

In November 2018 you were overheard by a third party saying you had "had sex with a 15 year old". It seems the third party then spoke to the complainant, and she disclosed the incident. She subsequently spoke to a school nurse which led to a report to Tasmania Police. You were interviewed. In that interview you admitted you had been communicating in a sexual manner with the complainant. You also agreed that on the evening of 13 September you had gone to the complainant's room and laid down in bed with her. Whilst you admitted there may have been some sexual conversations between the two of you, you denied any physical contact or sexual intercourse with her. It is clear from your response to police that you were well aware of the complainant's age and that it was unlawful to have sexual intercourse with her, although in assessing what you said to police I take into account that when you were being interviewed, it was being suggested to you that the sexual intercourse had occurred without consent. It is now accepted of course that the sexual intercourse was consensual. That however has little bearing on your moral culpability. There was a difference in age of eight years, and a corresponding difference in sexual and emotional maturity. The law which makes such conduct criminal exists for the protection of children and young people. The law recognises that children require protection not only from adults who might take advantage of them, but also from their own poor and immature choices made at a time when they often lack the emotional and intellectual maturity and judgment to fully appreciate the consequences of those choices. It is now well understood that the consequences for a young person of engaging in premature sexual relations, even where consensual, can be detrimental and damaging, and the true extent of the impact may not emerge until much later.

Here the complainant has suffered ongoing psychological consequences. Your counsel has urged that I should exercise caution in assessing the impact of this crime upon the complainant,

because it is submitted her subsequent conduct was "inconsistent with someone who feels degraded or humiliated about sexual activity". Whilst I accept it is appropriate to exercise a degree of circumspection in assessing specific impact upon the complainant, it is important to note, in my view, that it ought to be understood that the behaviour of a victim of sexual abuse does not always demonstrably correlate with the level of trauma they are experiencing.

In sentencing a matter of this nature it is important to make very clear to you, Mr S, and others who may be tempted to act in a similar way, that the sexual abuse of young people when they are at a vulnerable and formative stage of life, is likely to have very significant and long-lasting harmful consequences.

It is of course also most important to have regard to your personal circumstances and general background. You are now aged 26. You are in a long-term supportive relationship. There is one child to that relationship. You have a strong industrious background and are in full-time employment. I have regard to the references that have been provided on your behalf. You are obviously well-liked and respected in your employment. You have no relevant prior convictions. I think it could be said that other than your commission of this crime, you are law abiding, hardworking, reliable and well respected. There is nothing to indicate your conduct was overtly coercive or predatory. It was a single occasion. I accept the intercourse was not planned, but also it could not be said to be truly opportunistic, given the exchange of messages in the weeks leading up to the incident. It is an aggravating factor that you did not wear a condom. It carries with it the risk of pregnancy and transmission of disease, although I note there is no suggestion either of those things happened. It does however display something of a careless attitude in terms of the complainant's welfare.

I take into account your plea of guilty. I accept it was entered at an early opportunity following some negotiation as to the nature of the incident. Most importantly it has avoided the need for the complainant to give evidence, and it counts in your favour.

Crimes of this nature constitute serious criminal conduct and it is important that the sentence emphasises general deterrence. I intend therefore to impose a sentence of imprisonment. However because of the relatively limited disparity in age, your otherwise good character, your plea of guilty and your sound future prospects, I intend to wholly suspend that period of imprisonment. You must understand though Mr S, if you commit any offence punishable by imprisonment, whether of a similar nature or not, you will be required to serve the sentence unless the court dealing with the new offence forms the opinion that such an outcome would be unjust.

You are convicted of the crime to which you have pleaded guilty. You are sentenced to six months' imprisonment, the whole of which is suspended for a period of two years from today. The condition of suspension is that you are not to commit any offence punishable by imprisonment during that period.

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. Although I think that the risk is relatively low, it is impossible for me, given the circumstances of this case, to say that there is no risk. Accordingly I must make an order. I order that your name be placed on the register pursuant to the Act, and that you comply with the reporting obligations under that Act for a period of three years from today.