

DPH, you have pleaded guilty to one count of persistent sexual abuse of a child. The crime involved 12 episodes of sexual conduct perpetrated upon a single complainant, your daughter. Eleven of the episodes involved you penetrating your daughter's vagina with your finger. At the time those acts were committed, they amounted to the crime of aggravated sexual assault. On one other occasion, you indecently assaulted your daughter by placing her hand onto your penis. The sexual assaults occurred over a six month period in 1982, when your daughter was aged approximately 12 and you were aged approximately 40.

All of the offending occurred in the family home when the complainant was in your care and other members of the family were at work, were asleep or were in other areas of the home. On several occasions, you entered the complainant's bedroom whilst she was sleeping. You would slide your hand up between her thighs, rub her clitoris and push your fingers into her vagina. The complainant shared her bedroom with her sister and whilst there is no evidence the sister ever observed any incidents, you were obviously prepared to expose her to the risk of doing so. Episodes of sexual abuse also occurred in the lounge room, including the indecent assault. At a time when her siblings had gone to bed and her mother was working night shift, you made the complainant sit near you on the couch. You started touching and rubbing her vagina and then undid your pants, exposing your penis. You told your daughter "Don't worry, you can't get pregnant because I've had a special operation and can't make babies anymore." You made your daughter place her hand on your penis and masturbate you.

It was common after the various acts of sexual abuse, for you to tell your daughter: "If you tell anyone, the Police will take me away and your mother will leave." This worried the complainant. She feared what would happen to her and her siblings if this was to occur. Your coercion of her avoided the disclosure of your crimes. The offending only came to an end when the complainant's mother found you in the complainant's bed. When she challenged you about what you were doing, you replied "I was just tickling her awake." Your wife reacted to this discovery, by essentially, covering it up. Your daughter was told not to tell anyone. She was taken to a doctor. When the doctor enquired as to whether charges were to be pressed, the complainant's mother, indicated they would not be, because the abuser was her husband. The complainant was taken to church. She recalls the priest telling her "You must forgive the man who did this as it was not his fault. It was the devil in him."

After the discovery of the sexual abuse, it stopped, but the complainant's relationship with her family was irretrievably damaged. She left home when she was 15. She has struggled ever since. She has been ostracised from her family. She has spent all of her adult life experiencing sadness, fear, confusion, self-doubt and loneliness. Your conduct involved an appalling breach of trust. You bore a responsibility to nurture, care and protect you daughter, but instead you took advantage of her love and trust in order to abuse her.

The abuse occurred at a time in her life which was of particular importance for both her psychological and emotional development. She was just entering into her teenage years. All of your abuse occurred within the family home. This should have been a safe and secure place for her, but instead it was permeated by anxiety, distress and fear about what might happen to her.

There can be no doubt that crimes of this nature involve exceptionally serious moral and criminal wrongdoing. I have regard to the aggravating circumstances I am required to take into account by virtue of the *Sentencing Act* 1997, s 11A. The abuse was all committed when the complainant was under your care and supervision and you were her parent. The complainant was under 13 when the main of the abuse occurred. It is also aggravating that you manipulated the complainant's silence by suggesting any disclosure would result in you being taken away and her mother leaving. It left the complainant in a situation where she felt compelled to hide what was happening to her and endeavour to cope with the feelings of shame, fear, and confusion on her own. Your conduct has had a profound, life-long effect upon your daughter. The true effect of your conduct upon her is, I suspect, simply immeasurable.

In sentencing crimes of this nature, there is a very strong need for general deterrence and denunciation. These crimes cause terrible harm and are often difficult to detect. I note here detection arose by chance. It is not a situation whereby you realised your wrongdoing and desisted from your offending.

You are now 80 years of age. You remain married to your wife, the complainant's mother. You have a good employment history and have lived an industrious life. You have no recorded prior criminal history. Of course, in cases such as this, previous good character is not uncommon and counts for little in the sentencing exercise.

I am told you are ashamed of your behaviour and struggle to understand why you acted as you did. I accept you are sorry for your behaviour and the effect it has had upon your daughter and the broader family. You now live interstate and made arrangements to have this matter dealt with so as to bring about some closure for your daughter, although I note a warrant had to issue to bring you before the Court for sentence. I nevertheless accept you could have delayed the finalisation of this matter by taking the matter to trial and given your advanced years and health there may have been a risk the trial would not have occurred. Your plea of guilty has vindicated the complainant. I am told you were abused by a priest at a scout camp when you were approximately ten years of age. You have never discussed that incident with any professionals and have struggled to come to terms with it throughout your life. You wonder whether that experience has some correlation with what you did to your daughter. From a sentencing perspective, it provides little, if any, mitigation.

I accept that you suffer from a number of significant health conditions. I have been provided with a report from your general practitioner. It notes you have a number of medical difficulties, including heart disease and cardiac failure, renal failure, peripheral vascular disease, epilepsy, Sydenham's chorea, severe spinal osteoarthritis and you have had a total left hip replacement. Your mobility is poor. You use a walking frame and your general practitioner notes you have had a history of falls. You also suffer from intermittent faecal and urinary incontinence. You have a carer who assists you with showering and dressing. You are unable to shower yourself.

Your advanced age and associated ill-health are relevant to the assessment of sentence because they will inevitably mean that your time in custody will be more onerous than otherwise. There is, I acknowledge, a real risk that you will spend a considerable period of your remaining life in prison. However, these factors must be balanced against the objective seriousness of your crime and the high degree of moral culpability you bear for your offending. I note also, the predicament you now find yourself in, is to a large extent, of your own making. Your crimes were not disclosed until the latter part of 2015 because the impact your crimes had upon your daughter meant that, until then, she was simply unable to confront the matter. You, of course,

could have brought these crimes to the attention of the authorities at any time after their commission. Instead, the matter was silenced within the home.

To your credit, when you were spoken to by police, which for reasons that cannot be attributed to you, did not occur until 2021, you made a number of admissions. You admitted inserting your fingers into your daughter's vagina. You estimated you had done it about "a dozen times over six months." You agreed your wife had caught you in bed with the complainant and that the abuse finished thereafter. You agreed that your wife had taken the complainant to the doctor's and to the priest and afterwards, that the matter was "not spoken about". You told the police you thought it was a good thing that it was "out in the open".

The admissions you made and your plea of guilty count in your favour. They are reflective of remorse and most importantly, your plea of guilty has saved the complainant the ordeal of having to give evidence and has ultimately vindicated her account.

The seriousness of your criminal conduct, involving as it did such a grave breach of trust; your moral culpability and the need to impose a sentence which deters others, vindicates your victim and denounces your behaviour, means the only possible sentence is a significant term of imprisonment. The sexual abuse of children must always be condemned and the sentence needs to reflect the Court's intolerance for these crimes and the obligation it has to protect children from the degradation that is inherent in their commission. I have no doubt that the harm you caused to your daughter will be a permanent feature of her life.

I accept the prison environment will be difficult for you. I accept there is a risk it will cause a deterioration in your already complicated health conditions, but there is nothing before me to indicate the prison authorities cannot appropriately manage your health conditions. I will nevertheless moderate the sentence and provide for parole at the earliest opportunity to take into account your age, ill health and your plea of guilty.

DPH, you are convicted and sentenced to imprisonment for a period of four years and six months. You will not be eligible for release on parole until you have served one-half of that sentence. I am required to make an order under the *Community Protection (Offender Reporting) Act 2005*, unless I am satisfied you do not pose a risk of committing a reportable offence in the future. Having regard to your age, the state of your health and the probability that you will spend a considerable portion of the balance of your life in prison, I am satisfied that you do not pose such a risk and accordingly, I decline to make an order.