

NB you plead guilty to persistent sexual abuse of a child. Although your case does not involve multiple victims, it is an unusually serious case of child sexual abuse, involving many aggravating circumstances. The victim of the crime was your step daughter M. M is now 17. She is a person with autism spectrum disorder, attention deficit hyperactivity disorder, borderline intellectual capacity and emotional dysregulation, although all of those conditions have only recently been diagnosed. You began a relationship with M's mother Ms S in around 2008 when M was three or four. You had a child with Ms S, a son, born in 2009. During your relationship with Ms S, M regarded you as her step-father and you assumed a parental role.

Until your relationship with Ms S ended you lived with her and the children in a small town. Ms S then moved with the two children to a different residence in another area and you moved to a different town not far away. However you still had contact with the children at their home and when they were brought for overnight visits with you, usually every two weeks. Your abuse of M was first reported to the police in the latter part of 2017 after she began to refuse to visit you and told her mother you had been doing inappropriate things to her. By then she was 11. What emerged during the course of the investigation of her complaint is that for at least the period of about four and a half years between 1 February 2013 and 1 September 2017 identified in the indictment you had been subjecting her to abuse of the most heinous and degrading kind. The conduct involved indecent assaults, oral sexual intercourse, attempted sexual intercourse, vaginal sexual intercourse and anal sexual intercourse. The abuse happened with such frequency that for the most part M is only able to give a generalised account of abuse of various kinds. She identifies, on my count, 10 particular occasions consisting of four indecent assaults, an anal rape, two vaginal rapes, an attempted rape and two oral rapes. However these instances are to be regarded as examples of a course of very frequent sexual abuse of all of those types throughout the offending period. The sexual acts which M described to the people who interviewed her make clear that the conduct included many vaginal, anal and oral rapes. Because of M's age and intellectual capacity the dates and order of some of the events she described to the police is imprecise. There is some inconsistency about where and when some of the events occurred but that is common in cases of this nature. She uses simple language which I have transposed into my own words for clarity.

She described the abuse as beginning when she was eight when you forced her to use her hand to masturbate you. The first rape occurred when she was nine. It happened in her own home while her mother was absent. Despite her struggle to resist you penetrated her anus with your penis. A week later you raped her again, this time vaginally. Thereafter you continued to regularly commit these terrible acts against her. She told the police that it happened pretty much every time that she visited you overnight. It continued until she finally was able to tell someone almost four years later. Over the course of that period, in addition to the vaginal and anal rapes, she describes oral rapes in which you forced your penis into her mouth. She describes you raping her in your bed and waking her up to rape her in her own bed. You sometimes wedged the door shut so her brother could not come in. On one occasion he did walk in but she sent him away not wanting him to see what was happening. She describes other indecent assaults such as you rubbing her vagina and you forcing her to masturbate you. In the course of the sentencing hearing your counsel submitted that there was no assertion expressly made in the prosecution facts that your sexual acts were accompanied by ejaculation. The overwhelming inference to be drawn from the facts asserted at the original sentencing hearing about the number and nature of

the acts committed by the defendant is that there was ejaculation on at least some if not most occasions. Further assertions are made by the State to support that state of affairs. Moreover, there is an assertion in the stated facts that M said when describing an instance of her rubbing your penis up and down with her hand that “he just tries to get this stuff out of his thingy...” Ejaculation, although usually a natural consequence of sexual intercourse, is an aggravating factor. After the matter was raised with your counsel you do not dispute that the basis of sentence should be as I have stated.

There are other factors which make your crime worse. On occasions you demanded that she perform or submit to sexual acts in return for food. You sometimes used your strength to restrain her, to stop her from running away and to overcome her resistance. She told the police that when you penetrated her it hurt because she was only a kid. You sometimes put your hand over her mouth to keep her quiet. You showed her pornographic films and magazines. You never wore a condom. You told her that she would enjoy the feeling of what you were doing to her if she was patient and threatened her with harm if she told anyone what was happening to her.

You are now aged 48. At the time of this crime you had some convictions for driving, drug, firearm and anti-social offending but not for sexual offences. You grew up in a loving and supportive family but you were also the subject of sexual abuse as a child by an extended family member. This profoundly affected you. Your education was disrupted and you began at an early age to heavily abuse alcohol and illicit drugs including cannabis, amphetamines, methylamphetamine and heroin. You used drugs and alcohol as a means to cope with past trauma and the abuse of M occurred at the height of your addiction. You claim to have little recollection of this period as a result but you do not dispute that you acted as I have described. The cruel irony of this is that you perpetrated the same abuse on M as had been so damaging to you and seemingly to an even greater extent.

You were arrested and charged on 7 December 2018. You failed to appear in court on a number of subsequent occasions and by August 2019 you had fled the State. You were eventually located in Western Australia but not until 9 August 2022. By then you had become sober. You were arrested and have been in custody since then. Following your extradition to Tasmania you pleaded guilty relatively quickly.

Because of M's age and the number and nature of the demeaning and degrading sexual acts committed against her this is a very bad example of this crime. The abuse occurred repeatedly and over a prolonged period. I am required to take into account the aggravating factors referred to in the *Sentencing Act*, s 11A, all of which would be aggravating factors regardless of the legislation. The abuse started when M was very young and for all of the period of offending M was younger than 13. In addition to her age, the conditions she suffered from, even though only later diagnosed, are in the nature of a disability and made her more vulnerable. You claim to not have known about her intellectual deficit but your failure to appreciate it, if that is true, makes little difference. There was at least one occasion on which a sexual act took place when her brother was directly present and other occasions on which he was present in the house. She told the police she thought he realised something of what was happening. There were occasions when her mother was in the house although it is not suggested that her mother knew of your conduct. M described occasions on which you stopped only because her mother came near. Some violence, the force to overcome resistance to which I earlier referred, was involved. The threat to withhold food was degrading and humiliating. Perhaps most importantly of all, she regarded you as a parent and she was under your care, supervision or authority. There could

hardly be a greater or more profound breach of her trust. You did not stop offending until she formed the insight and summoned the courage which enabled her to speak up.

The primary aim in sentencing for matters such as this is the protection of children. The impact of your crime is a very important sentencing consideration. Crimes like this cause enormous harm to child victims. Profound and lifelong emotional and psychological harm is to be presumed. M's victim impact statement describes her feelings of isolation and helplessness. She felt violated as a result of the things which were happening to her and powerless to do anything about it. She is entirely justified in believing that you robbed her of her childhood. In a most terrible and damaging way you deprived her of the safe and happy childhood she was entitled to expect. In her victim impact statement she also describes how she felt she could not speak to her mother because she was also addicted to drugs and alcohol. One can only imagine the level of despair and helplessness she was experiencing while this was going on. She is now undergoing counselling at a specialist sexual assault counselling centre. She says that she wants to move on with her life. However she is still only 17 and it may be that the full nature and extent of the impact on her will not be known for a long time.

Because of all of those factors a very lengthy term of imprisonment is required. I will allow for parole but only after you have served a term which I think sufficiently serves the need for punishment, deterrence, vindication of the victim and denunciation. The sentence will commence on the day you were taken into custody. The only factor in your favour is your plea of guilty. The benefit of the plea is somewhat reduced because you absconded and did not return voluntarily. It demonstrates only recent insight into the gravity of your conduct because your repeated conduct at the time demonstrates a complete lack of remorse then. However your plea carries mitigation because it involves some albeit belated acceptance of responsibility, vindicates M and, most importantly, avoids a trial. That is important because it relieves M from the additional trauma of having to recount events, from thinking about having to give evidence and actually giving evidence. In her case that would be an especially difficult undertaking and potentially re-traumatising.

Because of the nature of your crime I am not satisfied that you do not pose a future risk of committing a reportable offence under the *Community Protection (Offender Reporting) Act*. I order that your name be placed on the register pursuant to that Act, and that you comply with the reporting obligations. It should be for the maximum period of 15 years. To the extent that I have the power to so order, this period should commence from the date of your actual release from prison.

But for your plea of guilty I would have sentenced you to imprisonment for 15 years and ordered a very long non-parole period. In light of your plea of guilty you are convicted and sentenced to imprisonment for 12 years from 9 August 2022. Because of the gravity of your crime I think that you should spend a minimum of eight years in custody. You will not be eligible for parole until you have served eight years of that term.