

Alexander Downes, you are convicted on your plea of guilty to persistent sexual abuse of a child. The crime was committed more than 30 years ago over a period of about one and a half years between mid-1989 and early 1991. For most of that time you were a teacher at secondary school in the role of acting senior science master. The person against whom the crime was committed was a female student at the school in grades nine and ten. I will refer to her as J. She was not in your class but you got to know her well at school and through community sporting activities. At sport you singled her out for praise and special attention. About half way through 1989 she told you she had feelings for you and you told her that the feelings were reciprocated. Soon afterwards you and she began to engage in sexual acts. She was 14 and you were 31. These acts continued until early 1991 by which time you were 33. She had just turned 16 and had commenced Grade 11 at a different school.

The crime to which you have pleaded guilty is committed if during a particular period you committed an unlawful sexual act upon a young person on at least three occasions. In general terms, the sexual activity between you and J consisted of oral and vaginal sexual intercourse as well as kissing and touching on the breasts and vagina. Once sexual intercourse and sexual acts commenced they occurred several times a week, whenever the opportunity arose. The sexual acts took place in many different places including in your car and in your home where, on occasions, she stayed overnight when your wife was absent. In the context of that ongoing sexual abuse, seven particular unlawful sexual acts are identified. Four occasions involve vaginal sexual intercourse which constitute on each occasion the crime of penetrative sexual abuse of a child. These instances of sexual intercourse occurred once in the teachers' units across the road from the school, on multiple occasions during a weekend spent with her at your friend's house, once at the school in the office of another teacher, and once in the bushes in the park across the road from her new school. The other identified occasions involved sexual touching and kissing which, given her incapacity to validly consent due to her age, amounted to indecent assaults.

Towards the end of the 1990 school year, more than a year after the acts commenced, you took leave from your teaching position to take up different employment. At the time there were rumours about the existence of a relationship between you. There is some contention about why you took leave but it makes no material difference because you continued to engage in sexual relations with her anyway. At the end of 1990 you gave her a sexually suggestive book for her 16th birthday. You told her when she was older you would leave your wife for her. When J's parents became aware of the existence of your sexual relationship with their daughter they reported it to the school principal. Remarkably, though it seems not uncommonly in such cases at the time, the police were not notified and you were transferred by the Education Department to a high school in a different region for the 1991 school year. Despite your absence from the school and despite the report to the principal and the rumours, you continued to engage in sexual acts with J. You eventually ceased your conduct in early 1991.

J did not report the matter to the police until 2021. The reasons that victims of child sexual abuse may delay reporting such crimes are well known. They include shame and embarrassment, a fear of not being believed and a reluctance to incriminate a person who may be the object of affection. That reluctance was no doubt reinforced in her case by the fact that when her parents reported the matter to the principal nothing was done. You were interviewed

by the police in 2022. You admitted that you had sexual intercourse with J when you were a teacher and she was a student. You generally downplayed the number of times it had taken place and suggested that the primary reason for it was her persistent attention toward you. However you are to be sentenced on the basis that the foregoing narrative is true.

You are now aged 65. You were married and have three adult children. Your marriage was not otherwise a successful one and you were divorced in 2014. You formed another relationship but your new partner died in 2018. You advanced in your teaching career and became a school principal until your resignation not long ago. Whether your retirement resulted from this crime coming to light is again the subject of some disagreement but it matters not for sentencing purposes. At your age and stage in life prison is likely to be difficult for you. Other than a few traffic infringements you had no prior convictions then and have none since. I infer that you were regarded by others at the time as a person of good character but that and the absence of prior convictions are the factors which put you in a position to offend and as a result are not to be taken into account. Since this crime was committed you have made a significant contribution to the community through your career and through various organisations. No doubt you have helped a lot of people. You have been a respected member of the community for decades. References from teaching colleagues attest to the respect with which you were held. Your reputation will now be in tatters. No suggestion has been made to me that you acted improperly towards any other person. I was informed that your name has been published and no other person has come forward. I accept that you have long regarded this as a great mistake, realise the damage you have done and want to make amends. However, in your case, I do not see that the gravity of the crime or your moral culpability is much diminished by those factors or the passage of time. Nor is the need for general deterrence any less. Potential offenders must understand that they will not escape punishment even if, as is very often the case, the crime only comes to light many years later. Because your offending did not become known, or at least because of how it was handled by those informed of it, you have for more than 30 years enjoyed the benefit of advancing your career and living in the community.

The law is in place to protect those who lack the emotional maturity and judgment to protect themselves from the type of profound and pervasive psychological harm that sexual offences against children are presumed to cause. J did not become pregnant but the risk of pregnancy was obvious. You sometimes used a condom during intercourse but there were other occasions of unprotected intercourse in which you merely withdrew your penis before ejaculation. The complainant is now 48. I have read her victim impact statement made recently. Such statements should be approached carefully but she describes just the type of adverse lifelong psychological impact which might be expected to result from sexual offences against children. She had been doing well at school but experienced a strong loss of confidence and self-worth. According to her statement she made a suicide attempt at the end of 1990. When the relationship ended she disengaged from education, turned to use of illicit drugs and formed a harmful relationship. She fell pregnant at 17. Such factors highlight her vulnerability. Looking back she realises the psychological harm she suffered. Her ability to form healthy relationships was greatly damaged for a long time. Her life generally went off the rails and she was only able to turn things around after about 20 years. She feels strongly that those vital and potentially productive years of her life were lost to her as a result of your crime. There may well have been other things at play but it is inevitable that your conduct was a very strong contributing factor.

I am required to take into account the aggravating factors referred to in the *Sentencing Act*, s 11A. On one occasion you kissed and touched J in the presence of her sister. The main factor which applies is that for most of the relevant period J was under your care, supervision or authority. Your crime is made more serious because of the very grave breach of trust which you committed. As a teacher at her school, and through your sporting relationship which I need not detail, you were in a position of great trust both to the complainant and her parents. Teachers occupy a position of special trust. You took advantage of that trust by repeatedly, and during a prolonged period, taking the opportunity for sexual relations which arose as a result. J was persistently infatuated with you but it was your very clear duty, because of your age, level of maturity and position, to resist any advances she may have made. There was an obvious age disparity and power imbalance. Her age and friendship with you made her highly vulnerable to the type of emotions which led to sexual activity. The primary aim in matters such as this is the protection of children. As far as a court can do so that aim is to be advanced by imposing a sentence which punishes and condemns your conduct and which may deter others in a similar position from acting in the same way.

The strongest factor in your favour is that, once charged, you pleaded guilty at an early stage. That is a consideration which indicates an acceptance of responsibility, vindicates J and, most importantly, spares her from the additional trauma of having to give evidence or think about the possibility of having to give evidence. The result is that I will reduce the sentence I would otherwise have imposed by 20 per cent and allow the earliest opportunity for parole.

Given the your age, the passage of time and the absence of any further offending I think that you pose a very low risk of further offending, but I cannot be satisfied that you do not pose a material risk. I make an order directing that the Registrar under the *Community Protection (Offender Reporting) Act 2005* cause your name to be placed on the Register that you comply with the reporting obligations under the Act for 3 years from your release. I impose one sentence. You are sentenced to imprisonment for four years from 17 February 2023. I order that you not be eligible for parole until you have served half of that term.