

DS you have pleaded guilty to one count of persistent sexual abuse of a young person. The offending took place over a period of approximately three months from 13 April 2021 until mid-June 2021. At the relevant time you were aged 27 and the complainant was aged 14. The complainant was subject to a care and protection order and resided in supported accommodation. That factor alone made her particularly vulnerable to the type of emotions which led to her becoming involved in a sexual relationship with you.

At the time of the offending you were in a relationship with KP. You had been together for approximately ten years and have four children together. You all resided together as a family. You met the complainant via social media. During initial conversations the complainant told you she was 18 turning 19. Such conversations quickly turned into a discussion about sexual practices and you asked the complainant to join you and KP in a polyamorous relationship.

Following this engagement on social media you and the complainant met in person. You engaged in sexual intercourse. The State do not assert any criminality associated with this first act of sexual intercourse as they accept at this point in time you were of the belief that the complainant was 18.

Shortly thereafter however, it became apparent to you that the complainant was much younger. You and your partner asked the complainant about her age and asked her to produce proof of identity documents. By about 30 April 2021, you had been told by friends and members of your family that the complainant was only aged 14. You continued to ask the complainant about her age. At one point she told you she was 17 but by this time you had a body of contradictory evidence. You had been told by a number of people that she was younger. On 2 May 2021 your sister in fact sent you a document that had the complainant's true date of birth on it. Your sister also told you the complainant was subject to a care and protection order. When your sister confronted you about the inappropriateness of your relationship with the complainant, you made light of it, responding by saying "yep...like I said I am a ped".

On 3 May you challenged the complainant and told her you had paperwork showing her to be 14 years of age. She again suggested to you she was older. Despite your obvious knowledge at this point that the complainant was far younger than she was claiming, you continued to engage in a sexual relationship with her. All sexual intercourse you participated in from this time was clearly criminal and your moral culpability for the same was high. She was young and her life circumstances made her susceptible to influence. Between 30 April and 7 May you and the complainant engaged in vaginal/penile sexual intercourse on at least three occasions. There were also additional occasions of oral sexual intercourse with you penetrating the complainant's mouth with your penis. During this period of the relationship the complainant would stay at your house with you and KP. She would sleep in the same bed as you and KP. You would show affection to the complainant in the presence of KP. You and the complainant would shower together. No sexual intercourse however occurred when KP was present.

On 7 May 2021 you attended the Burnie Police Station with a photograph of the complainant and asked police whether they knew her and her age. You were advised by a police officer as to the complainant's identity and you were told that she was 14 years of age.

You subsequently participated in a video record of interview. You told police that you had had sexual intercourse with the complainant on approximately six occasions as part of a polyamorous relationship. You told police on no occasion did you use a condom and that on at least one occasion you had ejaculated within her. As to the complainant's age, you told police that originally you believed her to be 18, but at one point she had also told you that she was 17 years of age. You told police that family members had expressed concerns to you about her age. You participated in a second record of interview on 11 May 2022. In that interview you admitted that there had been further acts of sexual intercourse. You made further statements to police suggesting you were well aware that her age was far younger than 17.

Following the interview of 7 May 2021, you and the complainant stopped speaking for a few days but then reconnected via social media. You and the complainant spoke with each other about continuing the relationship but only recommencing a sexual relationship once she had turned 17. These conversations were witnessed at times by the complainant's child safety workers.

In late May 2021, you and the complainant resumed sexual relationships. You would meet at a relatively remote location and have sexual intercourse under a bridge. Sexual intercourse occurred in this area on 3 occasions. The last time you and the complainant engaged in sexual intercourse was in mid- June 2021. Following the acts of sexual intercourse you would speak with the complainant about difficulties you were having in your relationship with KP and also about some self-harm issues she was experiencing. In the later part of your relationship with the complainant, you had conversations with her in which you threatened self-harm, to the extent she contacted police with a concern for welfare report. These were intense conversations for a young person and burdening her with such conversation was, in my view, emotionally manipulative. Throughout June 2021 the complainant's child safety workers observed multiple conversations between you and the complainant via Facetime video calls. Some of these calls occurred whilst each of you were showering. Subjects of a sexual nature were discussed during the calls. The complainant also took a pregnancy test during this period of time and discussed the possibility of pregnancy with a support worker. The relationship between you and the complainant came to an end in late June 2021.

You are now 29 years of age. You remain in a relationship with KP. You are self-employed, operating a successful landscaping business. You have four children. One of those children has significant health issues which has necessitated regular travel to the Mainland for a number of surgeries. Without income from your employment, maintaining the health arrangements for this child will become more difficult. Approximately five years ago you were the victim of a very serious assault which left you with a fractured skull. Thereafter, you developed post-traumatic stress disorder, depression and anxiety. You are currently medicated for those conditions but you continue to struggle with them. You have attempted to take your own life in the past. I take your mental health difficulties into account generally but there is no suggestion that they operate to reduce your moral culpability or limit the role general deterrence should play in this sentencing exercise. By way of prior convictions, you have some matters involving breach of family violence order and two convictions for common assault. You also have some matters of dishonesty as a youth. You have no criminal history for conduct of this nature.

I regard your crime as a relatively serious example of its type. Although the relationship only lasted for a relatively short period of time, it was intense and the complainant was young and at an impressionable and formative stage of her emotional and sexual development. The age

disparity between you and she was significant. The law prohibits conduct of this nature because of the potential harm that can result to young persons from premature sexual activity. The law recognises that a person of this age is not mature nor experienced enough to make considered decisions about engaging in such activity and not able to adequately recognise or assess the harm that may flow from it. The complainant has declined to provide a victim impact statement but it is well recognised that sexual abuse of young persons can have significant and long term adverse consequences. Further it is reasonable to infer that the complainant was particularly vulnerable because of her life circumstances at the time. You took advantage of her youth and her vulnerability for your own sexual gratification. She clearly developed affection for you, and your family, and this of course compounded her vulnerability to abuse by you. As I have said, your moral culpability is high.

The sentence must reflect the need to protect the community by deterring others in a similar position who may be tempted to act in the same way, and must also punish and denounce such acts. I take into account that the sexual intercourse occurred consensually, but the complainant's consent was informed by her vulnerability, her life circumstances and her still young age. The fact that she willingly participated in the relationship is really of little significance. In my view there is a clear need for an emphasis on general deterrence and denunciation. The only appropriate sentence is one of imprisonment. I accept that you should receive credit for your early plea of guilty. It is reflective of remorse and acceptance of responsibility and most importantly has saved the complainant the distress and humiliation of giving evidence in a criminal trial.

I must 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. Having regard to the circumstances of his case I think that there is a moderate risk of future re-offending and accordingly I make an order. I order that your name be placed on the register pursuant to that Act and that you comply with the reporting obligations under that Act for a period of 6 years from now.

You are convicted of the crime to which you have pleaded guilty and sentenced to imprisonment for a period of 2 years. I order that you not be eligible for parole until you have served one half of that period of imprisonment. The period of imprisonment will commence on the day you were remanded in custody, namely, 21 February 2023.