

Ms M you have pleaded guilty to four counts of penetrative sexual abuse of a young person. You have also pleaded guilty to four summary charges of contravene conditions of a notice contrary to s 5(4) of the *Bail Act*. The sexual crimes were committed between 25 April 2022 and 15 May 2022. The young person concerned was 16 years of age at the time and you were 22 years. You met the complainant at work. You had been employed there for approximately six and half years. The complainant worked there casually. Whilst your role involved training junior staff you were not reasonable for training the complainant. Generally, you and the complainant did not work the same shifts, but over the Christmas period of 2021/2022 the two of you worked regularly together. It was during this period that the complainant began to develop romantic feelings for you. Shortly prior to 20 April 2022, the complainant told you he had feelings for you. Initially you resisted the complainant's advances, but eventually agreed to become his girlfriend. The two of you began to spend time together. You engaged in social outings and would socialise with family and friends. You also took the complainant for some driving lessons. The two of you would exchange gifts. It was a caring relationship of mutual affection. On 25 April 2022 the complainant visited your home. The complainant asked you if you wanted to have sexual intercourse. You indicated you did, provided he was comfortable with it. Thereafter you engaged in the first act of sexual intercourse. You had sexual intercourse with the complainant on three more occasions being on or around 9 May, 11 May and 15 May 2022. Each occasion involved vaginal/penile sexual intercourse. A condom was not used.

The complainant's mother was aware of his relationship with you. He had told his mother however that you were 17, nearly 18. She developed suspicions and accessed the complainant's mobile telephone. She discovered some social media posts that indicated your true age. In turn she contacted staff at your workplace and the matter was reported to police.

You were interviewed on 21 May 2022. You admitted to having been in a relationship with the complainant and admitted to four occasions of sexual intercourse. You told police you were aware that the complainant was not of a legal age to consent to sexual intercourse and acknowledged that it was wrong to have engaged in sexual intercourse with him. You told police it occurred because you loved one another. As part of their investigation police accessed your mobile telephone. They located numerous message exchanges between you and the complainant. There were some overtly sexual messages, but not many. The main of the messages were of caring, romantic nature. Some of the messages were quite emotionally intense, discussing topics such as marriage and children. You and the complainant also exchanged photographs of an intimate, but not sexual nature.

On 30 May 2022 you were bailed from police custody with conditions not to contact or approach the complainant. You breached these bail conditions on four occasions. On 4 June 2022 you met the complainant at a beach. The two of you kissed and cuddled and discussed your relationship. Later that same evening you contacted the complainant via Xbox and spoke to him. On 5 June 2022 you again contacted the complainant via Xbox and spoke to him. On 6 June 2022 you and the complainant contacted each other by a social media platform. You expressed mutual love and affection for each other and discussed maintaining the relationship despite having been spoken to by police. The two of you also discussed maintaining an ongoing sexual relationship. Police subsequently conducted further forensic examination of your mobile telephone and an additional 185 messages sent between you and the complainant throughout

the period of bail were located. You were subsequently interviewed and admitted breaching the bail conditions. You told police that when it comes to the complainant you "do dumb things". You were again bailed on 9 June 2022, after having spent one night in custody. You put an end to any further contact with the complainant thereafter.

You are now 23 years of age. You have no prior convictions at all. I have received a forensic psychological report which indicates you have severe anxiety, depression and post traumatic stress disorder arising from a number of cumulative life traumas you have experienced. You were badly sexually abused at age 15 and then aged 20 during separate relationships with abusive partners. In 2021 your mother passed away from cancer after a long and difficult illness. You had been her carer for much of this time and you struggled to cope with her passing. You also suffer from a number of medical conditions which impact your life including Raynaud's disease, which shows itself by episodes of arterial spasm and reduced blood flow to the extremities. Stress is a risk factor for triggering such an episode. You have a history of eating disorder, anxiety and depression. The psychological report indicates you have an IQ which sits on the border of the low average/average range. I am told the complainant also experiences some intellectual limitations. His IQ sits within a similar range as yours. The psychological report indicates that the cumulative effect of the various traumatic experiences has affected your self-esteem and notes you present as passive and submissive within relationships. You are sensitive to attachments and emotionally reactive. It opines that the loss of your mother shortly prior to the relationship with the complainant commencing, placed you in a fragile emotional state where you were craving love and attention to comfort you.

There is no question that this is serious offending. The complainant was young and although it is accepted that he originally pursued a relationship with you, he did so from the perspective of a teenager whose decision-making was informed by a limited and perhaps misconceived emotional and developmental maturity. Your obligation was to reject his advances. I accept your relationship with the complainant was one of mutual affection. There is no suggestion at any point your behaviour was predatory, controlling or manipulative but as I have noted there was obviously an age difference – although not as marked as many instances of this crime that come before the Court - and therefore a corresponding difference in both sexual and emotional maturity. The law which makes your conduct criminal exists for the protection of young people. The law recognises that young people require protection not only from adults who make take advantage of them, but also from their own poor and immature choices, often made at a time when they lack the emotional and intellectual maturity and insight to fully appreciate the consequences of their choices. The law recognises the high potential of harm resulting from such abuse and seeks to protect children from that harm. It is now well understood that the consequences for a young person who engages in premature sexual relationships, even when consensual and affectionate, can be most damaging and the true extent of the impact may not emerge until much later. Here the complainant has provided a victim impact statement. I take it into account. The relationship has affected his family relations. He has also experienced conflicting emotions including feelings of sadness and confusion.

As far as your moral culpability is concerned, I take into account the matters raised in the psychological report. I accept that some mitigation is available to you because of your own vulnerabilities but it is limited. You were fully cognisant of the complainant's age and you knew having sexual intercourse with him was contrary to the law. Your need for love, affection and comfort could have been achieved without the relationship becoming sexual.

I take into account your plea of guilty. When you were questioned by police you fully cooperated with them and made significant admissions. I accept your plea of guilty is consistent with your stated remorse and an acceptance of responsibility. You now recognise the wrongfulness of your behaviour and have ceased all contact with the complainant. Your early plea of guilty has also saved the complainant the distress and humiliation of giving evidence in a criminal trial and you are entitled to credit for that. This sentencing exercise necessitates the need to balance a number of conflicting sentencing aims. There is a clear need to denounce your conduct and impose a punishment which will act as a deterrent to others, but I must also balance your personal circumstances including your lack of prior convictions, the nature and duration of the offending, your personal circumstances, mental health difficulties and the effect they had upon your judgement and what I accept is your genuine remorse. After balancing all such considerations I have decided that whilst a sentence of imprisonment must be imposed it is appropriate to suspend that period of imprisonment.

MLM you are convicted of all matters to which you have pleaded guilty. I intend to impose one sentence. You are sentenced to a global term of 15 months' imprisonment, the execution of which will be suspended for a period of two years on condition that you are not to commit another 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. Whilst I consider that risk to be low, because of the nature and circumstances of these crimes, I am not satisfied that you pose no risk at all. Therefore I must 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 4 years.