

NLR, you were found guilty by a jury of four counts of persistent sexual abuse of a child and two counts of indecent assault. These comments are edited to avoid identification of the victims, for whom I will use fictional names. Subject to the verdict, it is for me to determine the factual basis on which you are to be sentenced. Facts which are adverse to you must be proved beyond reasonable doubt. A person is guilty of the crime of persistent sexual abuse of a child if he or she maintains a sexual relationship with a young person under the age of 17 to whom he or she is not married. The crime is committed if, within a particular period, a person commits an unlawful sexual act in relation to that young person on at least three occasions. In this case, the prosecution case was that you regularly abused the four children against whom you committed that crime over a prolonged period but particular occasions were identified on which unlawful sexual acts were perpetrated. It follows from the guilty verdicts that the jury was satisfied beyond reasonable doubt that, for each child, at least three of those occasions were proved. Having reached those verdicts, the *Criminal Code* requires that I make findings in relation to either the nature or the character, or both the nature and the character, of the sexual relationship maintained. That provision may be read narrowly to require findings only about the identified occasions but the broad terms in which it is expressed seem to me to require further findings about the general nature and character of the sexual relationship. I propose to do both. It seems perverse in the circumstances to refer to your conduct as a sexual relationship and I do so only because those are the words used in the legislation. For the two counts of indecent assault the exercise of fact finding is conventional.

All of the crimes were committed against children in your care, either your own children or children for whom you had assumed a parental role. Your crimes came to light in March 2020 when you were living in Mowbray with your three biological children, Edward, Jennifer, and Kate, your then partner FT and her daughter Anna. All of those persons gave evidence incriminating you. Evidence was given by another child, Claire Jones. She was the daughter of a former partner and lived with you until 2014. The charges of indecent assault related to her. The evidence of all of the children at trial took the form of pre-recorded oral testimony and included audio visual recordings of interviews conducted by a police officer. Each child was cross-examined. When you were interviewed by the police you denied that any sexual misconduct of any nature involving you had occurred. The jury rejected your account. The terms of sub-section 4(c) of s 125A of the Code provide that, to return a guilty verdict on a charge brought under that section, it was not necessary for each member of the jury to be satisfied that the unlawful sexual acts were committed on the same three occasions. In light of how the case was conducted and the nature of the abuse described, and when all of the evidence is taken into account, I think it is inconceivable that the jury concluded that some but not all of the occasions specified by the prosecution occurred. However it remains possible that, in relation to Jennifer, Kate and Anna that the jury did not agree about every occasion. Thus it is for me to make the necessary findings.

Although not discovered until 2020, your abuse began at least seven years earlier in 2013. You were then living in a small town near Launceston in what I will call the first house. Your partner at the time was Erica Jones. Claire was her daughter and you had two sons together. On 10 June 2013 Edward, Jennifer and Kate were returned to your care. Before then they had been in foster care. The evidence did not disclose who their mother was or why they had been in care. Erica Jones and her children left the home in September 2014. You continued to live in the first house with Edward, Jennifer and Kate. In January 2016 Ms T, who you had met and befriended on-

line, came to Tasmania from interstate with her daughter Anna, and began to live with you. She quickly assumed a maternal role in the house. In 2018 the family moved to the house in Mowbray.

You indecently assaulted Claire when she lived with you and began to abuse your own children soon after they were returned to your care. The abuse of your own children continued throughout the period of offending until 2020. When Anna came to live with you in 2016 she was abused as well. I find that in all essential respects the evidence given by the children and Ms T is truthful and reliable. The combined force of the prosecution evidence is so compelling and persuasive that I am left in no doubt that your denials to the police are lies. As I directed the jury, I warn myself of the chance that the evidence of Ms T may be unreliable because she was criminally concerned with some of the sexual acts which occurred after January 2016. She pleaded guilty to serious crimes and her sentence was reduced because she undertook to give evidence for the prosecution in your trial. However she impressed me as a person principally motivated by her shame and remorse and not by a wish to minimise her own responsibility or falsely shift blame to you. In many important respects her evidence was corroborated by the evidence of the children and by other evidence. It is inherently implausible that she alone was responsible for the sexual acts the jury found proved, and in any event, such a finding would be inconsistent with the verdicts. There were some inconsistencies in and between the accounts of the various witnesses. That is explained by the factors which commonly affect the evidence of children who are the victims of such abuse. Young children may not have a good understanding of dates, times and locations or have an ability to describe how different events relate to each other across time. Delay causes memories to fade or events to be wrongly attributed to a particular time or location. Where abuse occurs repeatedly and in similar circumstances over a lengthy period child victims are less able to describe specific or distinct occasions and differentiate one sexual act from another. All of those factors were at play here. Not only that, but each of the children were in a position where they were asked to give a detailed and recorded account in their own words of the most traumatic, intimate and humiliating nature to a police officer who was effectively a stranger to them. In every case but one that was a male police officer which I think made it even more uncomfortable for the girls. It is hardly surprising that some details were mistaken, missed or deliberately omitted.

It was not for you to prove that you did not commit these acts. In some cases it is impossible for an accused person to demonstrate why a prosecution witness may give a false or mistaken account. However when all of the evidence is considered, and in light of my impressions of each of the witnesses, I consider the possibility that Ms T lied and all of the children were either also lying or gave an honest but mistaken account of your conduct as so unlikely or implausible that it may be dismissed as a reasonable possibility. The jury must have reached the same conclusion.

In general terms I find that, leaving aside the indecent assaults for a moment, you sexually abused each of your own children and Anna in the most egregious way over a prolonged period. It is regrettably necessary for me to detail the abuse so I may make findings about it.

It is convenient to first address the indecent assault charges. Claire lived with you until she and her mother and brothers went back to Queensland in September 2014. You were a father figure to her. She was interviewed by a police officer in Queensland in March 2020 when she was 13. Because Jennifer and Edward were also present the assaults must have been committed between June 2013 and September 2014 when she was 6 or 7. On both occasions, while out in the family car, you told her that unless she touched your exposed penis she would not get an icecream. She did not want to do this but she complied because she did not want to miss out. She described

patting your penis like a cat and moving her hand up and down. On the first occasion Jennifer was also in the car. She is a year younger than Claire. On the second occasion Edward was with her in the car. He was six months older. The assaults occurred in the context of other sexual acts and requests. For example she said that you asked her to engage in sexual touching with Jennifer and Edward, and that Jennifer was also asked to touch your penis. The first count of indecent assault alleges that you directed Jennifer to touch Claire. However there is no evidence that any such touching occurred. Jennifer did not give evidence that something like this happened to Claire in the car although she did describe you abusing Claire in the house. That conduct is not the subject of any charge. Edward said that something happened in the car but described it as "having sex". It follows from the verdict that the jury was satisfied that the two charged indecent assaults, committed by you directing Claire to touch and stroke your exposed penis, occurred.

I will next deal with the persistent sexual abuse of your daughter Jennifer. She resumed living with you in June 2013 when she was 5. Every occasion identified by the prosecution on which you perpetrated an unlawful sexual act against Jennifer occurred after Ms T arrived in January 2016. By that time Jennifer was 8. However I am satisfied beyond reasonable doubt that well before then you were sexually abusing her including by regularly raping her. The account she gave in her police interview, allowing for the factors I have already addressed, was compelling. It was corroborated in very important respects by the observations of the other children, by things she told them at the time, and by the evidence of Ms T about what came later. Jennifer described events which were independently proved by other evidence. In Jennifer's police interview she said that the abuse started after she got out of foster care and continued until she and her siblings were removed seven years later in March 2020. By that time she was 12. You would take her clothes off and have sexual intercourse with her, either in her bedroom or in your own bedroom. She described you penetrating her vagina with your penis and touching her breasts. You did not use a condom. With some hesitation she, in childish words, described you ejaculating over her. On occasions she tried to push you off but you held her down by her arms with enough force to make her arms sore afterwards. You became angry and scary if she said no. On occasions you licked her vagina. She sometimes locked herself in her room or left the house to avoid the abuse. In other respects you shared a caring father and daughter relationship and you told her if she disclosed your conduct she would be taken away from you. She said that sexual intercourse happened hundreds of times and it became worse after Ms T arrived. She is describing events as a child, and some care is required about the accuracy of her estimate, but I have no doubt that the sexual acts she described occurred repeatedly over a long period and in similar circumstances. It is difficult to say with certainty where all the events she described fit into the period of offending. I think it very likely that the nature and frequency of the abuse escalated over time. The other children heard and saw you abusing Jennifer and witnessed her distress. It was not until the end of the period of offending that she realised through education and increased maturity that it was wrong and should not be happening. By then she thought it was happening about once a week.

In her case six particular occasions were identified. The jury must have been satisfied that at least three were proved. I am satisfied that all are proved. The first occurred within a week or two of Ms T's arrival in January 2016. You and she were having sex in your bedroom. Jennifer was called in. Ms T said that she thought Jennifer was 9 or 10 but in fact she was only 8. Jennifer was directed to touch Ms T's breasts. You applied lubricant to Jennifer's hand and guided it not only into Ms T's vagina but also her anus. Jennifer was directed to penetrate Ms T's vagina with a sex toy. While this happened you masturbated.

You told Ms T that you enjoyed involving the children in sexual activity with Ms T and that it heightened your sexual gratification. Before long, there was another occasion on which Jennifer was called in. You were having sex with Ms T in your bedroom. You again applied lubricant to Jennifer's hand and guided it into Ms T's vagina. You ejaculated into Ms T's vagina and directed Jennifer to lick it.

The third identified occasion occurred after the family moved to Mowbray. She was called into the bedroom when you were engaging in sexual activity with Ms T. While you were watching Ms T penetrated Jennifer's vagina with a sex toy.

The next identified occasion comes from the evidence of Kate that she saw you on top of Jennifer with your penis in her vagina. Kate was a young child but gave a hesitant but vivid description of seeing Jennifer on her back on the bed with you standing and moving backwards and forwards with your penis inside her, even though she was trying to pull away. Kate gave powerful evidence that this was a continuation of a long course of conduct. She said that after Erica Jones left you would force Jennifer to sleep with you in your room even though she did not want to.

The fifth identified occasion occurred towards the end of 2019. Under the ruse of sex education you directed Jennifer to put a condom on your erect penis.

The final identified occasion occurred in early 2020. You were standing over Jennifer who was lying on her back on the bed. While you penetrated her vagina with your penis Ms T held her hand and told her it would be over soon. Your conduct only came to light when Jennifer told a friend that you were raping her and the friend told her mother.

I turn next to the persistent sexual abuse of your son Edward. Three particular occasions were identified. Each occasion involved him, at your instigation and direction, having sexual intercourse with Ms T by penetrating her vagina with his penis. Only a matter of weeks after you first engaged Jennifer in sexual activity between you and Ms T you called Edward into the room. He was 9. You and Ms T had been having sex. You directed Edward to remove his clothes, lie on top of Ms T and put his penis in her vagina. In Ms T's words you helped him move up and down and in and out.

The next occasion occurred in late 2019 or early 2020. By then Edward was 12 or 13. Again under the guise of sex education you told Ms T to put a condom on Edward. He did not want to participate but you provided the condom and directed him to comply. She masturbated him to make his penis erect, put on the condom and then, while you watched, Ms T engaged in sexual intercourse with Edward by him penetrating her vagina with his penis.

The third occasion occurred in early 2020. You were vasectomised in 2013. You and Ms T discussed having a child but could not afford IVF. You came up with the idea that she could become pregnant by having sex with Edward. Despite Edward again indicating that he did not wish to comply, he was directed by you, and he engaged in sexual intercourse with Ms T from behind while she was on all fours until he ejaculated. Part of your plan was that similarity in DNA between Edward and you would help conceal the identity of the true father. In the result she did not become pregnant and Edward was removed from the house not long afterwards.

When first interviewed, Edward referred only to a single such occasion. In a later interview he said it happened too many times to count. I think that the truth lies somewhere in between. It follows from the verdict that the jury was satisfied of all three identified occasions. I am satisfied

that these three occasions were not the only occasions on which this happened. In late 2019 or early 2020 Edward told a friend that he had to "fuck his mum" to get out of being grounded. I can make no precise findings about how frequently unlawful sexual acts of this nature occurred.

When Kate returned to your care in mid-2013 she was 3 years old. When Ms T arrived Kate was 5. When the family moved to Mowbray she was 7 or 8. By the time she was removed and first interviewed in March 2020 she was 9. It is not alleged that Ms T committed any sexual acts against her. The only person who abused her was you. The abuse began while you were still living in the first house. When first interviewed Kate only described having seen you abusing Jennifer, although she said she had been told of other things by others. She was next interviewed two years later when she was almost 12. She spoke to a female police officer and was more forthcoming. In her case four particular occasions are identified. She said that the first time she could remember something happening was when you lived in the house away from Launceston when "it was just the four of us", which must have been prior to January 2016, most likely in 2015. She was not yet 6. She said, in childish language, that you put your penis in her vagina. She was lying on her back on the bed as you were standing over her and she kept trying to pull away. She cried and told you to stop but you wouldn't. That is the first identified occasion. She said that the same thing kept happening in that house, even before you went to Mowbray to live, and continued after that. She said it was every day but I could be satisfied only that it was a commonly repeated occurrence. I am satisfied that she was telling the truth and that acts of a similar nature began in 2015 or 2016 and regularly happened until March 2020.

Jennifer gave evidence of your abuse of other children including Kate. She heard you telling Kate to get undressed and heard her loudly crying and distressed. She saw her crying into a pillow with you on top of her. One such occasion is relied on as an unlawful sexual act.

Ms T described an occasion on which she and you were in bed naked. When Kate came into the room you indecently asked her to, not using these words, put her hand into MS T's vagina. She refused.

Edward gave evidence that he knew from what he had seen and heard and been told by the girls that you were abusing all of them including Anna and Kate. He described Anna as crying and running naked to try to get away from you. He suggested that Kate did not fight as much and described an occasion, only weeks before March 2020, on which he walked in on you engaging in sexual intercourse with her. She was on her back and you were standing over her. She was 9. That is the fourth identified occasion.

Anna was 4 when she entered your household and 8 when she was removed. She was unable to bring herself to speak to the police until March 2022 by which time she was 10. Even then her distress during parts of the interview was obvious. She described how you would put your penis into her vagina in your bedroom, in the lounge room and in her bedroom, and that you did this to her, to Kate and to Jennifer. She said that whenever she or the others wanted something she and they had to do it. She saw things happening to Jennifer and Kate, saw their distress and heard them say things like "get off me." She was scared that you would come in at night and do it again to her so she slept with the light on. Her description of what was happening was to much the same effect as the description given by Kate and she said your abuse of her occurred both in the first house and in the Mowbray house. When her mother was away from the house you would ask her to remove her clothes, or take her to your room and remove her clothes, and put your penis in her vagina. For her five particular occasions are identified. I find all are proved. She said that the first time this happened the other children were at school. She tried to fight you off

but she wasn't strong enough. She felt something going inside her. You told her not to tell anyone about what you had done. That is the first identified occasion.

She recounted another occasion, also at the first house, when Jennifer was home sick. You took her into your bedroom, locked the door and penetrated her vagina with your penis. She cried, she said. That is the second identified occasion. She thought that this happened at the first house up to four times, possibly more, but she couldn't be sure.

She described the occasion she first remembered this happening at the Mowbray house. She was getting changed out of her school uniform when you put her on the floor and penetrated your vagina with your penis. When asked how often this happened she told the interviewing officer that it was about two times a week. It may have felt like that to her but I regard it as unlikely to be true. I have no doubt however that she was regularly the subject of such abuse.

Anna's evidence of abuse is corroborated by her mother. Ms T described the other two occasions identified by the prosecution. On an occasion in the Mowbray house Ms T was in the lounge room getting ready for work. She told you that she was "horny". You took Anna's hand and penetrated Ms T's vagina with it. Anna did not want to do this but Ms T and you derived sexual pleasure from it. I think it most likely that this was during 2019 after Anna was 8 but cannot be more precise about her age.

The final identified occasion concerning Anna also involves her mother. Ms T was giving you oral sex in your bedroom. You were both naked. Anna walked in. You told Anna to take over giving you oral sex. You penetrated her mouth with your penis while Ms T was beside her.

You are now aged 49. As your counsel correctly concedes there are no mitigating factors. You are not to be punished for exercising the right to trial but you are not entitled to the mitigation a plea of guilty generally attracts, especially in matters of this nature. Had there been a plea of guilty the children would have been spared the additional trauma of having to recall these events and give evidence about them. They had that prospect hanging over their heads for more than two years before their evidence was recorded.

Your first reaction when you became aware that the child protection authorities and the police were investigating a complaint was to attempt to contact the children and warn them not to talk to the police. I accept the evidence of Ms T about the messages you had her send to that effect and the statements you made. The statements were heard also by Kate. It is also consistent with the evidence of the children that you made repeated demands for secrecy. The post offence messages and statements are consistent only, in my view, with a consciousness of guilt and demonstrate a complete absence of remorse. There has been a singular absence of any indication of remorse since then. Your offending cannot be attributed to any mental disturbance, deficit or disorder or other frailty.

Prior good character would not have been mitigating in a case like this, but you cannot claim even that. This is not the first time you have committed an offence of this character. In 2005, in Queensland, you were sentenced to a term of imprisonment, most of which was suspended, for maintaining an unlawful relationship with a child. You were 30. She was 15 and living in vulnerable circumstances. She became pregnant to you and gave birth to a child. Soon after having been sentenced, in breach of the law and of orders prohibiting you from doing so, you attempted to take the girl and her child out of Queensland and bring them to Tasmania. You are not to be punished again for those offences but they demonstrate a long standing pattern of

behaviour both as to sexual relations with children and a preparedness to breach the law. Those offences were not the same as these but they indicate that there is a reduced prospect of your rehabilitation and that protection of others from the risk you continue to pose is a sentencing factor.

I find that you committed or were the instigator of all the crimes against the children. Once Ms T's relationship with you began, she fell under your influence. By then you had abused Claire and were already abusing Jennifer and Kate. After Ms T arrived your abuse continued and extended to all of the children in your household. Jennifer's evidence was that your abuse became even more frequent. I will repeat and add to some of the remarks I made when sentencing Ms T. As serious as her crimes were your crimes are much worse and none of the mitigating factors which applied to her apply to you. There could be no greater breach of the trust of your own children and the children for whom you had assumed a parental role. Your responsibility was to protect and care for them. They were all of very tender age. The crimes were committed in what should have been the safety and security of their home. The sexual abuse included acts of a perverse, degrading and humiliating nature, involved application of physical force to overcome resistance and was also achieved by emotional pressure and threats. Distress, discomfort and trauma experienced by the children was ignored. Perverse sexual acts were normalised but all were obviously without consent. Every instance of sexual intercourse was a rape. All of the crimes committed against your biological children were incestuous. Each child not only experienced abuse but also knew, from what they saw and heard, about the abuse of the others. All were told not to say anything to anyone else about it. Living with you must have been torture for all of them. The sexual acts were committed by you alone as well as with Ms T and sometimes in the presence of the other children.

I am left in no doubt that the acts you committed or directed were motivated by a sexual attraction to children and by the sexual gratification you experienced by involvement of children in sexual acts. That is relevant not only to my finding that you committed the acts alleged against you but also makes clear that you present a continuing risk to the community.

The damage you have done to these children can hardly be imagined. It is to be presumed that sexual crimes against children of this nature will cause profound harm, likely to be lifelong. The victim impact statements which were read to me are at least as, if not more, harrowing as any I have heard in my decade as a judge. They describe terrible psychological harm. I have been given a report from a psychologist about Jennifer. All of your biological children have counselling available to them. Anna cannot yet face up to the prospect of it. It is unnecessary to restate the contents of the victim impact statements or the reports. I take all of it into account. For all of the children the consequences, emotional, psychological, sexual, behavioural and cognitive, will likely be lifelong.

This is as grave a set of crimes against children as may come before a court. There is a very strong need to punish you, denounce your actions and protect the community, in particular other children, from you. The sentence must make clear to you and others that those who commit sexual abuse against children can expect harsh punishment, with the aim, as far as a sentencing court can achieve, of protecting children by deterring such abuse. Responsible members of the society could not but experience feelings of abhorrence, revulsion and disgust at subjecting these children to such acts and it is my duty to sentence you accordingly. In these comments I have, as I am required to do, taken into account any of the factors of aggravation listed in the *Sentencing Act 1997*, s 11A, which apply to the circumstances of this case. For completeness I

record that I have taken into account the factors listed in sub-section (1)(a), (c), (d), (e), (h) and (i).

Viewed in isolation the indecent assaults committed against Claire warrant a sentence of imprisonment of no less than one year. The crime committed against Jennifer involved three incestuous rapes and three other occasions of grave indecency committed in the context of repeated rapes over a period of about seven years between the ages of 5 and 12. It warrants a sentence of no less than 12 years. The crime committed against Edward involved three occasions of you instigating sexual intercourse between him and Ms T in the context of other such occasions between age 9 and 13. It warrants a sentence of no less than five years. The crime committed against Kate involved three incestuous rapes and an act of indecency committed in the context of repeated rapes over a period of about six years when she was aged between 4 and 9. It warrants a sentence of no less than 12 years. The crime committed against Anna involved five rapes committed in the context of repeated rapes over a period of about four years when she was aged between 4 and 8. It warrants a sentence of no less than 12 years.

The aggregate sentence to be imposed is to be moderated by proportionality and totality while also addressing the need to recognise the wrong done to each victim. I must look at the totality of your criminal behaviour and ask myself what is the appropriate sentence for all the offences. I will allow eligibility for parole but only after you have served a term which adequately addresses the need for punishment, protection of the public and deterrence. Whether you are granted parole will ultimately be a matter for the Parole Board. You have been in custody since 4 May 2020.

NLR, you are convicted on each count. I make an order under the *Community Protection (Offender Reporting) Act 2005* directing that the Registrar cause your name to be placed on the Register and that you comply with the reporting obligations under that Act for the remainder of your life. I impose one sentence. You are sentenced to a term of imprisonment of 25 years from 4 May 2020. I order that you not be eligible for parole until you have served 16 years of that term.