

JK pleads guilty to maintaining a sexual relationship with a young person.

For about 18 months between early 2013 and mid-2014 the defendant was in a relationship with the complainant's mother. During the period of that relationship the defendant and the complainant became friendly. About two months after the relationship ceased, the defendant, then aged 45, was contacted by the complainant, then aged 16 years and one month. She suggested that they meet. They commenced to do so. Initially the contact was platonic, but not long afterwards the defendant suggested sex. Apart from some kissing and ongoing communication, no unlawful act was committed until 30 January 2015. After lying to her parents about where she was staying that night, she went to the defendant's home. The defendant purchased and supplied her with alcohol. They engaged in oral and vaginal sexual intercourse. The defendant wore a condom. Later the same night there was a further attempt at vaginal sexual intercourse. After intercourse began, the complainant refused to continue after realising that the defendant was not wearing a condom and was fearful of becoming pregnant.

About two weeks later, on 14 February 2015, they conspired to meet again and went to the defendant's house. On two separate occasions on that day they engaged in unlawful sexual acts including vaginal sexual intercourse and mutual oral sex. The defendant wore a condom. On that night they argued. The defendant became apprehensive about the possible consequences of his acts.

The offending was discovered two days later when the complainant's mother became suspicious and confronted the complainant. The defendant was interviewed by the police on 24 February 2015 but denied the unlawful sexual acts had occurred.

Once charged, the defendant pleaded guilty at the earliest opportunity. He is entitled to mitigation from that plea. As a result of it the complainant was aware that she would be spared the trauma and embarrassment of having to give evidence. His plea also indicates an acceptance of responsibility for criminal conduct.

It is not contended that the complainant acted from fear or from being overborne. However because of the disparity in their ages, her consent is no defence. The law is in place to protect young people, not only from the influence and manipulation of those older than them, but also from the consequences of decisions they lack the maturity and judgment to make for themselves. She was in a vulnerable situation and he was considerably older. It is relevant to the level of influence which the defendant had that the complainant demonstrated a capacity to refuse intercourse when she did not agree.

In assessing the criminality of the defendant's conduct I take into account a number of matters. The offending occurred on two days within a period of about two weeks, although it was not spontaneous, and the defendant had ample opportunity over some months to consider the acts he eventually took. I take into account the complainant's age and the disparity between their respective ages. On the facts I was given, the defendant resolved to cease the unlawful conduct before his offending came to light. I was told that the defendant's relationship with her mother did not involve co-habitation and thus the defendant did not assume a parental role with the complainant. Nevertheless, it is clear they became close and it is inevitable, in my view, that she would have regarded him as a mature male influence in her

life. She said as much in the victim impact statement she made. I treat the statement with the required circumspection. She says that she suffered from anxiety from grade 9 and that, since these events, she has become more anxious and required counselling. Her education has been disrupted. The psychological impact of conduct of this nature can be significant and long-lasting and may only become apparent over time. I am not satisfied that all of the consequences which the complainant speaks of should be attributed to the defendant's illegal acts, but I am satisfied they played some part.

The defendant is not presently in a relationship. He has no prior convictions of any nature. He has a good industrial record but left his most recent job as a result of these events. He has the sole care of his 9-year-old daughter. She was present in the house on at least one of the days of offending, but was not exposed to any part of it. The defendant is well regarded and trusted by his friends, who I accept are of good repute. They observe him to be a good father to his daughter. That trust, in one case, extends to the care of his friend's female daughter. I accept that the defendant is sorry for what he has done. He ceased all contact with the complainant after his offending was discovered for fear that further contact would make the situation worse, despite her continuing affection for him, at least at that time.

I have concluded that whilst a sentence of imprisonment is required, it is not to be immediately served. He will be placed on the reporting register which will be punishment in itself.

JK, you are convicted. You will pay the victims of crime compensation levy of \$50 within 28 days. You are sentenced to a term of imprisonment of ten months. I wholly suspend that sentence for three years from today. It is a condition of that sentence that you not commit any offence punishable by imprisonment during that period. Although I am satisfied that the risk of re-offending is low, I am not satisfied that there is no risk. I order that the Registrar appointed under s 42 of the *Community Protection (Offender Reporting) Act* place your name on the register under that Act, and that you comply with the reporting obligations for two years.