

You plead guilty to production of child exploitation material. It is an unusual case. For about two years until late 2019 you were in a relationship with a man who, unknown to you, had been committing a range of very serious crimes concerning accessing, possession and production of child exploitation material and soliciting and engaging in online sexual activity with children. This commenced some years before you met him but continued during your relationship. By then you were in your mid-thirties. Most unfortunately, some of his offending disclosed a sexual interest in one of your daughters. Not long before your partner's offending came to light he had covertly filmed her in the shower. To protect her identity I will refer to as V and also anonymise your name.

You knew nothing about any of your partner's criminal activity. You did not live with him. However your criminal responsibility arises in the following way. On 10 August 2019, he, with your consent, produced on his mobile phone four audio visual recordings of you and him engaging in sexual activity. There is of course nothing unlawful about sexual activity between consenting adults or him or you recording audio and visual images of it. However, during your sexual relations, you pretended to be your daughter who was, then, aged only 12. At times you wore a uniform from her school. It was not her uniform but was purchased by you second hand. Although no child is involved, the audio and images are child exploitation material because they describe a child involved in sexual activity in a way a reasonable person would find offensive. The description reaches the level of criminality because, in the course of your role play, you pretended to be your daughter by name, age and by her school in a highly sexualised context as though your partner was performing sexual acts on her and her on him. That is so even though you are not a child and it would have been apparent to anyone viewing the recording that you were not a child. A further recording of the same nature was made a week later on 17 August 2019.

By knowingly participating in the recording, you played a part in the production of it. That would not have been a crime unless you knew or ought to have known that it was child exploitation material. It is accepted by the prosecution that you did not know that the recording had that character. However, you are to be sentenced on the basis that by your plea you admit that you ought to have known that the making of a recording of sexual relations in which you pretended, in the way you did, to be a 12 year old girl, even though it is obvious that you were not, would be regarded by a reasonable person as offensive. I accept that you participated only at your then partner's instigation and request and as a misguided attempt to sexually please him and overcome his apparent reluctance to engage in sexual intimacy. It happened on two occasions only, separated in time by about a week. Your daughter was not, in any way, actually involved in these events and the things you said about her being involved were a reference to you taking on her persona as part of your role play. You did not view the recordings yourself. You had a legitimate expectation that the recordings would not be seen by anyone other than you and your partner. There is nothing to suggest that they were in fact shown or sent to anyone else. There remained some possibility that they could have been because he had deceived you in many other ways, but it does not seem to me to be the type of material which would be of much interest to anyone looking for child pornography, and is not likely to encourage others to do so. When viewed in the context that, at the time, you had no idea of your partner's criminal conduct, your own conduct takes on a completely different character.

It is in your favour that you pleaded guilty although that occurred on the day your trial was due to commence. Although the matter was prepared for trial, all the witnesses were either police or formal witnesses, and so no vulnerable witnesses had to face the prospect of, or prepare for, trial. By pleading guilty you properly accepted responsibility for your lapse of judgment. The force of that acceptance of responsibility is added to because it is a case, uncommon in my experience, in which by pleading guilty you gave up a realistic chance of acquittal given the nature of the question a jury would have had to grapple with. You have no relevant prior convictions. These events have already had a devastating impact on you. You have been shamed and humiliated. The child protection authorities, properly concerned that you may have had something to do with your partner's other criminal activities, even though you did not, removed your children from your care, first to their father and then to your parents. Until then you had been their primary carer and you were devoted to them. Your children were not returned to your care for 17 months and since then you have focussed on their recovery and support. You lost your employment in the education sector as a teachers' aid. News of the nature of your partner's criminal activity led to social media condemnation directed at you. For about six months you felt unable to leave your house. In every other respect you are a responsible and law abiding citizen. You did not find alternative employment for about 18 months. I have references which attest to the high regard in which you are held by that employer and to your otherwise good character. You were not charged with these crimes until two years after the event, and these proceedings have been an additional source of distress and trauma for you. You have already undergone counselling and treatment to ensure that you are better able to recognise the risks posed by involvement with the type of sexual conduct your partner drew you into. You have support in the community.

I have been given a report written by Dr Georgina O'Donnell which supports the matters I have already addressed. Dr O'Donnell indicates that you do not present with major mental illness, intellectual disability, personality disorder or risk factors that are associated with predictable risk of future sexual offending. I do not regard you as posing any appreciable risk of committing an offence of this character in the future. I would decline to make an order under the *Community Protection (Offender Reporting) Act 2005*. I do not consider any sentence of imprisonment is necessary. I accept that conviction and punishment would ordinarily be required to mark the seriousness of this crime, however, I have concluded that the circumstances are so exceptional that it is inappropriate to impose anything other than nominal punishment and to extend mercy to you.

Without conviction I adjourn the proceedings for two years from today. Upon you giving an undertaking to, during that period, appear before the court if called on to do so and to be of good behaviour you will be released. If you fail to comply you may be brought back to court and re-sentenced.