

Matthew Searle, you plead guilty to two counts of grooming with intent to expose a young person to indecent material. In each case the charge concerns communications on one or both of your two mobile phones between you and two young girls on the messaging service WhatsApp.

The first was a user called Mandy. You began communicating with her on 25 August 2020 and continued to do so until 5 July 2023. The communications were in the form of text messages, voice messages, video messages and shared images and videos. The images make clear that she was under 17. You admit that you believed she was under that age. She talked of going to school and living with her parents. At the time the communications began you were 25. The communications included general chat but quickly became sexual. During the offending period you sent her highly sexualised and explicit written messages describing acts of oral and vaginal sexual intercourse with her. You encouraged her to send naked images which she did including one of her masturbating. You sent her a photo of your penis.

The second user was a girl who used the name Emi Wolfy. You began to chat with her on 21 January 2021 and the communications continued until 13 September 2023. The communications took the same form including messages that you love and miss each other. However there were many highly sexualised messages, some very explicit. In the visual images I was shown she, in particular, looked very young. During the offending period you encouraged her to film herself touching her breasts and masturbating and send you the images, which she did. You sent images of your penis and of yourself masturbating.

All of this material was discovered by the police on 13 February 2024. Neither of these girls has been identified. They could be anywhere in the world. But the nature of the messages and images establishes that they were real persons with whom you were contemporaneously communicating. Generally, the factor of overwhelming importance in sentencing for crimes of this nature is the protection of children. Offenders must not only be punished and denounced, but sentences must serve to, as far as a court is able to achieve, signal to others the likely harsh consequences. Child sexual offences carry the presumption of harm. Your conduct had great potential to corrupt and damage the victims. To the extent that your offending consisted of on-line communications between you and the victims, there is a strong need for general deterrence and protection of the public. Offences of that nature are difficult to detect and are almost always committed in private, beyond the notice of those who would be responsible for the safety and protection of young persons. Young persons who participate in such on-line communications must, as far as a court is able to achieve, be protected from their own vulnerability, immaturity and misjudgment by imposition of sentences which seek to deter those who would wish to take advantage of them. All of those factors point to imprisonment as the only appropriate sentence because of the strong need for punishment and general deterrence.

However, in your case, it is not as simple as that. You entered an early plea of guilty to both counts. Your personal circumstances were described to me by your lawyer, in a report prepared by a forensic psychologist, Dr Georgina O'Donnell and in a pre-sentence report prepared by a probation officer. You are now aged 29. You were brought up in NSW and came to Tasmania in 2019. Dr O'Donnell reports that you have a mild intellectual disability and that you are suspected to be neuro-diverse, although that has not yet been formally assessed. After your arrest you were not interviewed by the police because they were not satisfied that you were able to understand the process. You live in Launceston in supported residential accommodation in a

group home managed by the St Michaels Association. The NSW Public Trustee manages your affairs as your guardian. The NDIS funds supported living, occupational therapy and psychological intervention. You are described as forgetful, impulsive, disorganised, reclusive and anxious. You have to be encouraged to go out and your primary mechanism for social interaction is on line live streams of gaming. You have held some employment but it has to be supported. You have two children to two different partners but you do not have in person contact with either child. One of the children is profoundly disabled. You are currently in a relationship with a woman who lives in Hobart who also has an intellectual disability. You maintain online contact and have met in person several times, but St Michaels' support staff are carefully managing the relationship to ensure that healthy boundaries are set. The author of the pre-sentence report consulted with a disability advocate and with the residential team co-ordinator and support worker at St Michaels when she prepared the report.

Dr O'Donnell assessed you as fit to stand trial. She was asked to assess how your mental impairment may be relevant to what sentence is imposed. It is her opinion, which I accept, that you are a vulnerable person and would be at serious risk of mental health deterioration in prison. As to whether your moral culpability is reduced her response is more guarded. Dr O'Donnell does not say that you did not understand that your conduct was wrong. However, in her opinion your disability reduces your ability to effectively navigate emotional, sexual and social situations. According to Dr O'Donnell you are interested in sexual contact with others and having a girlfriend to meet your emotional and sexual needs, but you have poor and sometimes inappropriate communication skills when trying to have these needs met. In her opinion your online sexual communication is causally linked to your intellectual disability and neuro-diversity, as opposed to reflecting a pedophilic disorder. According to a report from a mental health advocate, you are sorry and ashamed for what you have done.

This makes sentencing a difficult exercise. You did not act spontaneously. Your illegal on-line communications with these girls went on for years. They, and young persons like them, must be protected as far as possible from conduct of this nature. However punishment of you is not likely to change anything, and, because of your mental impairment, you are not a suitable person to be made an example of. The author of the pre-sentence report explained that your intellectual disability was apparent through the assessment and that you appeared to have very little understanding of the process. Dr O'Donnell recommends that there be a multi-disciplinary assessment of your probable neuro-diversity in a treatment setting which would help the allied health professionals to target your psycho-social education. I have concluded, with some hesitation, that the sentence of imprisonment I am about to impose should be wholly suspended. The order I make under the *Community Protection (Offender Reporting) Act 2005* will enable regular monitoring of your electronic devices, which are hopefully also monitored by the support staff at St Michaels. Because of the high level of supervision you will receive the pre-sentence report does not recommend a condition for supervision.

You are convicted on each count. You pose a risk of committing a reportable offence within the meaning of that term in the *Community Protection (Offender Reporting) Act 2005* in the future. I make an order directing that the Registrar cause your name to be placed on the Register and that you comply with the reporting obligations under the Act for a period eight years from today. I would have sentenced you to imprisonment for 12 months on each count. To take account of totality you are sentenced to imprisonment for 18 months wholly suspended for three years from today. It is a condition of that order that during the period the order is in force you commit no offence punishable by imprisonment. You must understand that if you breach that condition by

doing something like this again you will be required to serve the term of imprisonment I have imposed unless a judge is satisfied that would be unjust.