

Mr Debelin, you have pleaded guilty to two counts of grooming with intent to procure a young person for sexual abuse, contrary to s 125D(1) of the *Criminal Code*. This crime is committed when a person makes a communication by any means to any person with the intention of procuring a person under the age of 17 years to engage in an unlawful sexual act. An unlawful sexual act includes various sexual crimes, including, as in this case, penetrative sexual abuse.

Your communications involved the sending of two letters to the complainant, who was aged 14 years at the time of the offending. Fortunately, both letters were intercepted before they reached the child. Had they reached her, I have no doubt psychological harm would have ensued, given the content of the letters. In July and August 2022, you were an inmate at Risdon Prison. The complainant's mother was a friend of yours. You and the complainant's mother had been friends before your remand in custody and you had regularly spent time with her and her children, one of whom was the complainant.

Whilst you were remanded in custody, the complainant's mother visited you and the two of you would regularly exchange letters. Within the letters you sent to the complainant's mother, you would also convey messages for the children, particularly the eldest daughter, whom I shall refer to as "C" and, to a more limited extent, the complainant. At one point, there was a discussion between you and the complainant's mother as to whether C or the complainant was more mature. There was also a discussion about feelings C, and the complainant may have for you.

On 11 July 2022, a letter that you sent to the complainant from within Risdon Prison, was intercepted during an outgoing mail screening exercise. The letter had your name on the back of the envelope and was directed to the complainant. In that letter, you made several graphic and sexually explicit comments, basically describing to the complainant the various ways in which you would seek to have sexual intercourse with her. You also encouraged the complainant to send you "sexy photos".

It is obvious that you knew the content of the letter was inappropriate because in the letter you tell the complainant she should hide it from others. You signed the letter "love from Tyler". Following the interception of the letter, you were spoken to by correctional officers about the content of the communication. Essentially, you lied about sending it and claimed you were being set up. The letter was subsequently forwarded to police and then sent for forensic examination. Two of your fingerprints were located on the letter.

In August 2022, you wrote a letter to the complainant's mother. In the course of the letter, you referenced both C and the complainant. You made sexually explicit comments about acts you may have performed with C, and then suggested you may now like to perform those acts with the complainant. Again, your comments were sexually explicit and entirely inappropriate to be directed at a 14-year-old child.

Again, this communication did not find its way to the complainant. It was held by her mother. This later communication came to light when the police were investigating the circumstances surrounding the sending of the first letter.

I take into account that your grooming behaviour was limited to the two specific occasions identified. This is not a case where there was an ongoing period of grooming. Nor is it a case where the grooming occurred over the internet, where the potential for secrecy and non-detection is enhanced. Here, it was almost inevitable that the communications would be intercepted. It is of significance that the complainant did not ever receive the communications and therefore did not suffer the harm that is often seen in cases of this nature when a young child or teenager's innocence is destroyed and their mind potentially corrupted.

All of that said, this remains a serious incident of criminality. You sent communications knowing the complainant was a child, intending to engage her in sexual activity. After the first letter was sent and you were spoken to by prison authorities, you sent a further communication. Clearly, you had at that point, at least, no insight or appreciation of the appalling nature of your behaviour. In assessing the seriousness of the behaviour, however, I take into account that you were in custody and serving a sentence, and not due for release until mid-2023. The opportunity to follow through with your stated intention was, therefore, hampered until at least that point.

You are 24 years of age. You were 23 when the crimes were committed. You have an extensive prior criminal history. You were first sentenced by a court in 2010 when you aged 10. Since then, your offending has been relatively constant. As a youth, you were subject to several orders pursuant to the *Youth Justice Act*, including suspended detention orders. You received your first period of actual detention in July 2015. Your prior criminal history includes offences of dishonesty, destruction of property, violence, driving offences, offences against police and fire setting offences.

On 27 February 2018, Pearce J sentenced you for two separate instances of criminal conduct, being offences of aggravated burglary, two counts of wounding, two counts of burglary and two counts of stealing, committed on 30 and 31 October 2016, together with the crimes of aggravated burglary and aggravated armed robbery, committed on 6 November 2017. You were sentenced to imprisonment for five years and three months from 6 November 2017. It was this sentence that you were serving when you sent the communications I have referred to.

On 6 September 2023, Pearce J made a high-risk offender order for a period of two years in respect to you. That order remains operative because I am informed that Community Corrections take the view that the order is suspended during any period that an offender is detained in custody. Since the making of the order in September 2023, you have spent a considerable time in custody, at times remanded in respect to this matter, and at other times remanded in respect to matters in the Magistrates Court.

In November 2023, you were sentenced to a six-month period of imprisonment for a large number of matters of dishonesty from the Magistrates Court.

You have a long history of behavioural difficulties, commencing from when you were about two years of age. I have a report from Dr Georgina O'Donnell, dated 8 December 2024. It outlines that you have been diagnosed with Attention Deficit Hyper-Activity Disorder. Your full-scale IQ has been assessed in the extremely low range. You have recently been diagnosed with post-traumatic stress disorder and anti-social personality disorder, arising from historical sexual abuse that you experienced whilst a detainee at Ashley Youth Detention Centre.

Your vulnerabilities meant that his schooling was very disrupted. You have had a limited education. You have also experienced a number of mental health difficulties and a significant drug addiction throughout your life.

You are the recipient of NDIS funding when you are in the community because of your diagnoses of mild intellectual disability and Attention Deficit Hyper-Activity Disorder.

I accept the myriad of vulnerabilities experienced by you contributes to your inability to exercise appropriate judgment at times, but also, I note, you have been the recipient of many sentences over the years directed at encouraging your rehabilitation. Historically, you have shown little insight into your difficulties, particularly the nexus between your drug use and the exacerbation of your mental health. You have also, in the past, demonstrated little by way of motivation to engage in programmes directed at assisting you, and bringing about long term change. The report of Dr O'Donnell suggests that you may have new-found motivation to make these changes as your partner is now expecting your first child. Whether in the long run that motivation holds firm, remains to be seen.

I accept there needs to be some allowance made for your cognitive impairment and mental health conditions. Those conditions do reduce, to some degree, the significance of general deterrence as a sentencing factor, but, of course, those conditions must also be factored into the Court's assessment of the need for protection of the public, and applied in placing weight upon that as a sentencing consideration. Previous sentences imposed upon you do not appear to have changed your attitude in terms of becoming a law-abiding citizen.

I note you do not have any prior convictions for sexual offending. I also take into account your pleas of guilty, which, whilst they could not be described as being early ones, have nevertheless had the benefit of saving the cost of a trial. Your pleas of guilty are also an acknowledgement of wrongdoing.

In sentencing this matter, it is, of course, relevant that the communications did not ever reach the intended child recipient, but there remains a very strong need to reflect condemnation of an intent to procure children for sexual abuse.

I make the following orders. You are convicted of both crimes. You are sentenced to 15 months' imprisonment. That sentence is backdated to 15 May 2024 to take into account time served in custody and not otherwise attributed to a sentencing order. Whilst I have considerable reservation about your prospects of rehabilitation for the reasons I have stated, I nevertheless consider it appropriate to make provision for parole in the hope that the impending birth of your child may provide sufficient motivation for you to start addressing your difficulties. I order that you not be eligible for parole until you have served nine months of the sentence.

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 am not satisfied of that, I am satisfied, given what I have outlined and your lack of prior sexual offending, that you are at low risk of committing such an offence. It is nevertheless appropriate that I order your name be placed on the register pursuant to the Act and that you comply with the reporting obligations under that Act for a period of three years after your release from prison.