

Ben Barnett, you plead guilty to 20 counts of use a carriage service to transmit indecent communications to a person under 16 contrary to the *Criminal Code* (Cth), s 474.27A(1), 1 count of use a carriage service for child pornography material contrary to s 474.19(1), 26 counts of use a carriage service for child abuse material contrary to s 474.22(1), 2 counts of possess child exploitation material contrary to s 474.22A(1) and one count of possess bestiality material contrary to the *Classification (Publication, Films and Computer Games) Enforcement Act 1995* (Tas), s 74.

In addition I was asked to take into account 16 other crimes in accordance with the *Crimes Act* (Cth), s 16BA, namely 14 counts of using a carriage service to transmit indecent communication to person under 16 years of age contrary to the *Criminal Code*, s 474.27A(1), one count of using a carriage service to solicit child abuse material contrary to s 474.22(1) and one count of using a carriage service to access child abuse material contrary to s 474.22(1). Each of the 16 schedule offences relate to the same or similar conduct as the primary offences to which they attach. The result of taking them into account is that a more severe sentence should be imposed on the primary offence that would have been imposed had it stood alone.

The offending was discovered on 11 July 2023 when Australian Federal Police officers attended and searched your home in suburban Launceston. They seized two phones from your bedroom which were later examined and analysed. Various communication applications were installed on the phones: Facebook, Instagram, Messenger Lite and Snapchat. A description of what was found on the phones was read to me during the sentencing hearing. The statement of the facts of the charged and schedule offences continues for about 24 typed pages and there is no need to repeat all of it. The criminal conduct commenced in December 2012 when you were 24 and continued for about ten years until the search in July 2023 when you were aged 34. Over that period you used the various applications to transmit indecent communications with 28 different recipients and transmitted or solicited child abuse material with others. Most of the charges relate to conduct which occurred later in the offending period, between about 2020 and 2023.

The indecent communications consisted of you engaging in highly sexualised on-line chat with persons who stated their age to between 9 and 15 with the majority being between 12 and 13. Some of the messages were less explicit but on many occasions they were highly explicit and included you asking about their sexual experience, reference to sex acts you would perform and have them perform including fingering, oral, vaginal and anal sexual intercourse, bondage and bestiality. Some of the offences involved subterfuge with you using multiple different accounts to send messages in false names as well as misrepresenting that you were close in age to the recipients and on one occasion saying that you were a female. A few examples will suffice. In December 2012, at the very start of the offending when you were 24, you engaged in an on-line chat with a girl who said she was in grade 6. You told her she was hot for her age, asked what she was wearing, told her she was dirty and called her a slut. In the same month there was a chat with a girl who said she was 12. You told her you would have sex with a 12 year old, asked whether she would suck you and told her you would finger her. There were other similar single instances in 2015, 2016 and 2017. In a 2018 on-line chat with a boy who said he was 12, and you were 29, you pretended to be a girl and asked "let me wank you hard" and engaged in chat about oral, vaginal and anal sexual intercourse. You asked for and were given his Facebook password.

From 2020 the communications became more frequent. I will give a couple of other examples. In that year during an on-line chat with a person identified as 13 you falsely stated you were 23, you wanted to "cum on her face", asked how big her boobs were and said you wanted to suck them. You were then 32. Count 36 is a rolled up offence concerning three instances of offending between November 2022 and May 2023. You chatted on-line with a male who stated he was 13. Included in the things you said was a suggestion he should ask his nine year old cousin to see and touch his penis and to make it erect. You told him you have sexual intercourse with your 11 year old brother and asked the recipient if he would fuck his 11 year old sister and encouraged other sexual conduct between him and his sister and cousin. There are many other examples throughout the offending period.

As to use of a carriage service to solicit and transmit child abuse material, you solicited child abuse material on 11 occasions by requesting sex videos with young children, kids being fucked, kids vids, sex with cousin and dick pic. On five occasions you requested images from the recipient whose stated age was between 9 and 14. You transmitted one image of a male penis. You caused transmission of an image of female breasts. You transmitted 48 child abuse images, 10 child abuse material videos as well as text based material comprising descriptions of sexual activity with the recipient whose stated age was between 10 and 14 including use of dildos, anal sex, sex with animals and use of restraints. The images and videos include pubescent and pre-pubescent children engaging in sexual touching, sexual posing, masturbation and sexual acts with adults. You caused transmission of 9 child abuse material images and 1 child abuse material video including children engaged in solo sexual activity and sexual touching.

Count 51 is an offence of possessing three child abuse material images and is related to Schedule offences O and P, respectively using a carriage service to access and transmit child abuse material. One of your phones contained three images of an identified user, a girl who was 11 at the time. In each image she is depicted as naked and the photographs were taken from a laptop. You obtained the images in a Facebook chat with her on 17 February 2022 in which using a false name you asked her to show herself naked. You were 33. She said she felt pressured by you to provide the images and another communication discloses that when she blocked you, you threatened to post the nude images.

Count 49 is a rolled up offence which, with count 50 and schedule item N, relates to your possession of 1129 child abuse images across the two phones. Count 50 is a rolled up offence relating to your accessing those 1129 child abuse material images. One of your phones contained 58 child abuse images accessed between 30 April 2021 and 28 June 2023, 409 child abuse material thumbnail images accessed between 4 October 2020 and 11 July 2023, 228 child abuse videos accessed between 7 May 2021 and 28 June 2023. There was also 424 videos with the majority depicting child abuse material accessed between 3 October 2020 and 8 July 2023. The other phone contained 3 child abuse images, 5 thumbnail images and two videos all accessed in June and July 2023. All of the images and videos on both phones were manually saved to the devices. The content includes mostly prepubescent children, both females and males, in solo sexual acts, in sexual acts together and in sexual acts with adult males and females. Some of the material is of the vilest and most disturbing kind. It depicts digital, vaginal and anal penetration by adults of prepubescent children, variously restrained, drugged and gagged and in obvious distress. In effect, some of the images could properly be described as sexual torture of toddlers and children. Some involve bestiality.

As to count 52, the State offence, one of your phones contained 26 bestiality videos involving adults and animals, mostly dogs, and 31 thumbnail images access between 13 January 2021 and 28 June 2023.

You are now aged 36. You have no criminal history. You were remanded in custody on 18 December 2024. You have found prison difficult so far. You choose to remain in your cell to avoid threats of violence, bullying and abuse to which you are vulnerable as a result of your personality and presentation. You have an eye condition and the unavailability of your usual treatment makes life more painful. You fear the condition may worsen. Until remanded in custody you lived with your parents and twin sister. Your counsel submitted that you struggle with your mental health and suffer from depression and anxiety however there is no evidence of any mental impairment which contributed to your offending or is otherwise relevant to sentence. You have always found it difficult to socialise. You experienced severe bullying at school and were the victim of a violent assault in 2015. This combination of factors meant that you have led a solitary existence largely relying on the internet for social connections, and you find it easier to interact with others in that environment. Your counsel described your circumstances at the time of the offending as lost, lonely and hopeless. You were initially sent child exploitation material unsolicited from a false on-line account, but after initially being disgusted you were drawn in. Your interactions with others in on-line chats began as platonic social interaction but you were emboldened to communicate in a way which you say you would never do in person.

Between 2015 and 2023 you volunteered at a local neighbourhood house where you gained satisfaction from helping people. In 2022 you worked as an early childhood educator. There is no suggestion of any threat or harm to any of the children you worked with in that role and you claim to have not been attracted to them.

In sentencing I am required to impose a sentence that is of a severity appropriate in all the circumstances of your offences and have regard to such of the matters set out in s 16A(2) of the *Crimes Act* as are relevant and known. I have stated your personal circumstances and the circumstances of your offending. Your plea of guilty is in your favour. It avoided a trial and spared at least one witness of the need to give evidence, although was entered although it was in the face of a very strong prosecution case. You made full admissions and gave an early indication of the plea. You were arrested in 2023 and not charged until September 2024, and so you have lived with the prospect of imprisonment for a considerable period. Of course some of that delay arose from the need for the police and prosecuting authorities to examine a large volume of material. You claim to be ashamed and disgusted but any claim to genuine remorse is to be judged against the repetitive nature of your crimes over such a long period. Nothing in your personal circumstances, as difficult as your situation may have been, is any comfort to the numerous victims of your conduct.

You are to be sentenced for most serious offences. The maximum sentences for these crimes provided for by the legislation provide some indication of the seriousness with which they are regarded by the Parliament and the community. Your offending continued for a decade in escalating frequency and seriousness. It did not stop until you were caught. For offences involving child abuse and child exploitation, general deterrence is the primary sentencing consideration. Sentences must serve not only to punish offenders but also to warn others of the potential consequences. Specific deterrence and protection of the community are also very important. The factors I have referred to which are personal to you carry less weight. The reason is that 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. As to the child exploitation material you accessed and possessed, real children all over the world were harmed in the creation of it. Access and possession exacerbate and extend the abuse and exploitation and tend to create a demand for its further production. You looked for and kept a significant amount of material depicting many different children being subjected to sexual abuse of the most depraved and abhorrent kind.

To the extent that your offending consisted of on-line communications between you and the victims, there is an additional need for general deterrence and protection of the public. It involves criminality of a different character than was involved in your accessing and possession of images and videos and carries substantial additional and separate criminality. You were well aware of what you were doing and you initiated the communications quite deliberately with a sexual motivation. The content was commonly explicitly and assertively sexual and predatory. It involved not only transmission of indecent material but solicitation and transmission, both to and from you, of sexual images including of your victims. To facilitate these chats you lied about your age and used accounts in false names. The recipients were numerous and were almost certainly real children. The content clearly expresses a sexual interest in children of that age which you later effectively admitted to the police. Such offences are difficult to detect because they are committed in secret, beyond the notice of those who would be responsible for the safety and protection of the young person. 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 seek to take advantage of them. The potential for these children to be damaged and corrupted by your conduct was very great. Your possession of three nude images of an identified girl aged 11 is of particular seriousness because of an associated threat to post the images she sent you on-line.

Your counsel said everything which could properly be said on your behalf. However I regard these as serious examples of the offending in the categories described. I will group them according to the categories reflected in these comments. Sentences for offences committed on or after 23 June 2020 are presumptively to be cumulative on an uncompleted term of imprisonment for another Commonwealth offence. However I will order some concurrency of sentence as a result of your plea, to reflect the extent to which there is some overlap of criminal culpability between the categories of offending I have identified and because one sentencing order will already achieve some of the same aims of the other sentencing order. The term I will impose is what I consider is a just aggregate term while still being of an appropriate severity in all the circumstances. I will cause my reasons for sentencing in this manner to be entered into the records of the court. The only appropriate sentence is a substantial term of imprisonment. I will allow for parole after you have served the minimum time necessary to reflect the objective seriousness of your offending and the accompanying need for general deterrence, punishment and protection of the public. I am required to make a single non-parole order.

Ben Barnett, on complaint 91206/2024 counts 4, 24 and 27 are dismissed. You are convicted on each remaining count. I order, pursuant to s 23ZD of the *Crimes Act* 1914 that the Samsung mobile phones respectively bearing IMEI 356223101764882 and 351812500364685 are forfeited to the Commonwealth. 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 a period of 15 years from your release.

On the State offence, count 52, you are sentenced to a term of imprisonment of six months from 18 December 2024. I order that you not be eligible for parole in respect to that term.

On counts 49, 50 and 51 I impose one sentence, a term of imprisonment of three years also from 18 December 2024. On the remaining counts I impose one sentence. You are sentenced to imprisonment for four years. I order that one year of that term be served concurrently with the term just imposed and the balance is to be served cumulatively. The result is a total term of six years from 18 December 2024. I order a non-parole period of three years and six months.